

## LEGISLATIVE BILL 1044

Approved by the Governor April 3, 1996

Introduced by Wesely, 26; Withem, 14; Brown, 6; Dierks, 40; Hillman, 48; Jensen, 20; Klein, 19; Matzke, 47; Robak, 22; Robinson, 16; Schimek, 27; Warner, 25; Wehrbein, 2; Lindsay, 9; Brashear, 4; Bohlke, 33; at the request of the Governor

AN ACT relating to health and human services; to amend sections 2-3932, 12-102, 12-610, 12-611, 12-612, 12-1106, 13-1207, 28-326, 28-327, 28-327.01, 28-327.03, 28-343, 28-345, 28-356, 28-372, 28-380, 28-401, 28-411, 28-412, 28-710, 28-713, 28-728, 28-729, 28-730, 28-1432, 29-2290, 29-2923, 29-2925 to 29-2932, 29-2934 to 29-2936, 30-2487, 31-708, 37-215.01, 37-1254.05, 42-106, 42-121, 42-705, 42-723, 42-903, 43-104.07, 43-106.01, 43-106.02, 43-107, 43-117 to 43-118, 43-120, 43-122, 43-123.01, 43-149, 43-156, 43-161 to 43-164, 43-247, 43-250, 43-254, 43-284 to 43-284.02, 43-285, 43-287.03 to 43-287.06, 43-289, 43-290, 43-292 to 43-294, 43-296, 43-2, 100, 43-2, 101, 43-503, 43-504.01, 43-507, 43-508, 43-511, 43-512.02, 43-512.05, 43-512.11 to 43-512.15, 43-512.17, 43-515, 43-522 to 43-525, 43-529, 43-701, 43-702, 43-705 to 43-708, 43-901, 43-902 to 43-905, 43-907 to 43-910, 43-913, 43-1005, 43-1301, 43-1303, 43-1304, 43-1309, 43-1310, 43-1319, 43-1706, 43-1902, 43-1903, 43-2003, 43-2411, 43-2503, 43-2505, 43-2507, 43-2508 to 43-2511, 43-2512, 43-2515, 43-2625, 44-771, 44-772, 44-782, 44-2847, 44-2901, 44-2904, 44-32, 119, 44-32, 120, 44-32, 127, 44-32, 128, 44-32, 134, 44-32, 136, 44-32, 152, 44-32, 153, 44-32, 156, 44-32, 157, 44-32, 163, 44-32, 165, 44-32, 176, 46-674.06, 46-674.20, 46-1011, 46-1018, 46-1207, 46-1217, 46-1225, 46-1235, 46-1235.01, 46-1237.01, 46-1237.02, 46-1240.05, 47-408, 54-747, 60-493, 60-6, 104, 60-6, 107, 60-6, 201, 68-126, 68-128 to 68-130, 68-134, 68-214, 68-309, 68-312, 68-313, 68-621, 68-703.01, 68-716 to 68-718, 68-1001, 68-1001.01, 68-1002, 68-1005, 68-1007, 68-1008, 68-1014 to 68-1017, 68-1023, 68-1026, 68-1033 to 68-1035, 68-1036, 68-1043, 68-1101, 68-1103 to 68-1105, 68-1205, 68-1207, 68-1207.01, 68-1210, 68-1402, 68-1403, 68-1405, 68-1503, 68-1514, 70-1603, 70-1605, 71-140, 71-141 to 71-144, 71-153, 71-158, 71-161.19, 71-165, 71-169, 71-180, 71-181, 71-185.01, 71-186, 71-188, 71-193.01, 71-193.03, 71-193.13 to 71-193.15, 71-193.19, 71-193.20, 71-193.22, 71-1, 105 to 71-1, 107.02, 71-1, 107.04 to 71-1, 107.08, 71-1, 107.10, 71-1, 107.11, 71-1, 107.14, 71-1, 136.03, 71-1, 137, 71-1, 139 to 71-1, 140, 71-1, 141, 71-1, 144.01, 71-1, 145, 71-1, 145.01, 71-1, 147.01, 71-1, 147.11, 71-1, 147.19, 71-1, 147.20, 71-1, 147.22, 71-1, 147.24 to 71-1, 147.26, 71-1, 147.28, 71-1, 147.30, 71-1, 147.31, 71-1, 190.01, 71-1, 191, 71-1, 238, 71-217, 71-223.01, 71-354, 71-355, 71-501, 71-502 to 71-502.03, 71-503, 71-504, 71-505, 71-519 to 71-524, 71-605.01, 71-610, 71-615, 71-616, 71-617.07 to 71-617.10, 71-626, 71-626.01, 71-627.01, 71-629, 71-630, 71-645, 71-902 to 71-905, 71-1341, 71-1401, 71-1403, 71-1405, 71-1617, 71-1635, 71-1710, 71-1737, 71-1745, 71-1768, 71-1802 to 71-1805, 71-2002, 71-2003, 71-2018, 71-2021, 71-2021.02, 71-2022, 71-2026, 71-2027, 71-2051, 71-2202, 71-2203, 71-2206, 71-2207, 71-2208, 71-2226 to 71-2228, 71-2408, 71-2409, 71-2503, 71-2506, 71-2509, 71-2610, 71-2617, 71-2619 to 71-2621, 71-2809, 71-3102, 71-3104, 71-3305, 71-3306, 71-3504, 71-3601, 71-3603, 71-3608, 71-3610 to 71-3614, 71-4302 to 71-4306, 71-4401, 71-4635, 71-4701, 71-4813, 71-4816, 71-4901 to 71-4904, 71-5002, 71-5017, 71-5024, 71-5026, 71-5032, 71-5114, 71-5205, 71-5303, 71-5304.01, 71-5304.02, 71-5306, 71-5310 to 71-5311, 71-5402, 71-5404, 71-5517, 71-5707, 71-5710, 71-5711, 71-5713, 71-5808, 71-5825, 71-5902, 71-5904, 71-5905, 71-5907, 71-6010, 71-6011, 71-6040, 71-6043, 71-6045, 71-6208, 71-6221, 71-6702, 71-6717, 71-6808, 71-6809, 71-6831, 72-249, 72-1302 to 72-1304, 76-1304, 76-14, 102, 77-27, 162, 77-27, 164, 77-27, 165, 77-27, 173, 79-444.01 to 79-444.03, 79-445, 79-4, 133, 79-4, 134, 79-4, 207, 79-1254.09, 79-1457, 79-3326, 79-3330, 79-3341, 79-3342, 79-3348, 79-3503, 79-3903 to 79-3905, 79-3910, 80-304, 80-306, 80-307, 80-606, 81-101, 81-102, 81-502.01, 81-505.01, 81-601 to 81-602, 81-604.01 to 81-604.03, 81-637, 81-638, 81-651, 81-652, 81-654, 81-661, 81-663, 81-664, 81-676 to 81-680, 81-829.73, 81-829.74, 81-1021, 81-1108.27, 81-1108.28, 81-1139.01, 81-1281, 81-1316, 81-15, 170, 81-2205 to 81-2207, 81-2213, 81-2226,

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to provide operative dates; to provide severability; to repeal the original sections; to outright repeal sections 68-701, 68-701.01, 68-701.02, 68-703, 71-2609, 79-3907, 81-603, 81-604, 81-2214, 81-2240, 83-101.01 to 83-101.05, 83-1202.02, 90-221, 90-222, 90-229 to 90-237, 90-249, 90-250, and 90-256 to 90-259, Reissue Revised Statutes of Nebraska, sections 68-1019.07, 71-2618, and 71-4821, Revised Statutes Supplement, 1994, sections 44-6703, 44-6704, 68-723, 81-2236, 81-2272, and 83-129, Revised Statutes Supplement, 1995, and section 79-3909, Reissue Revised Statutes of Nebraska, as amended by section 878, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996; and to declare an emergency.  
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 14 of this act shall be known and may be cited as the Nebraska Partnership for Health and Human Services Act.

Sec. 2. The Legislature finds that each Nebraskan should have a quality of life that reflects safety, self-sufficiency, respect, health and well-being, and opportunities to achieve maximum potential through new partnerships between the state and local communities. The Legislature further finds that in order to achieve this vision, it is necessary to create and sustain a unified, accessible, caring, competent, and responsive health and human services system for each Nebraskan that maximizes local determination and achieves measurable outcomes. To this end, the state will work in partnership with communities and other public and private sector entities. The Legislature finds that one purpose of this legislative bill is to reduce the size of state personnel and reduce state expenditures with a focus on local control and which considers privatization of services.

Sec. 3. For purposes of the Nebraska Partnership for Health and Human Services Act:

(1) Agency or agencies means the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, and the Office of Juvenile Services of the Department of Correctional Services;

(2) Community means persons and entities linked by common policy, location, characteristics, or other common interests. Persons and entities include families, neighborhoods, groups of citizens and their local governmental entities, individually and collectively, as well as health and human services providers, local services networks, private and nonprofit entities, and regional organizations;

(3) Departments means the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support which are the redesigned departments of health and human services effective January 1, 1997, as set forth in section 6 of this act;

(4) Health and human services system means coordinated policy development, service provision, program management, quality assurance, and financial and support services of health and human services through partnerships between agencies of state government and between state government and communities;

(5) Local service network means providers of health and human services, either public or private, and other supporting organizations which join together to form a coalition or alliance to better serve a community or communities collaboratively and which are recognized as local partners by the health and human services system;

(6) Outcomes means intended results impacting the health, safety, and well-being of individuals, families, and communities, the achievement of which are measured to mark and sustain progress;

(7) Partnership council means the Health and Human Services System Partnership Council established in section 10 of this act;

(8) Policy Cabinet means the directors of the departments and the Policy Secretary and is not intended to create or imply the creation of a separate legal entity or a public body subject to sections 84-1408 to 84-1414;

(9) Policy Secretary means the health and human services system Policy Secretary described in section 8 of this act; and

(10) Report means the plan for implementing the Nebraska Partnership for Health and Human Services Act.

Sec. 4. The directors of the agencies shall work in partnership with the public and agency employees to develop a report to submit to the Governor and Legislature by December 1, 1996, to include, but not be limited to:

(1) A transition plan describing in detail the actions, methods, steps, and timelines necessary to implement redesign of the agencies by

January 1, 1997, and the format of the structure, including who shall have access to confidential information at each level, the procedures, accounting mechanisms, funding streams, public accessibility of services by geographic area, and lines of authority that will exist during each phase of transition. To aid the development of the transition plan, a position shall be established with responsibility to respond to questions, concerns, and complaints from consumers, service providers, elected officials, and interested citizens in order to ensure high levels of accountability. A toll-free telephone number shall also be made available and be made public for these purposes. The person in the position shall submit a monthly report to the Governor, Policy Cabinet, and Legislature. This position shall be established on January 1, 1997, and shall not be terminated prior to July 1, 1998:

(2) A set of outcomes desired to form the basis for accountability of the health and human services system at state and community levels;

(3) A plan for support of local service networks that will foster determination of community services consistent with the identified outcomes;

(4) A long-term plan for developing effective preventive strategies that reduce the need for more intensive intervention services;

(5) A plan for evaluating the health and human services system performance to be used for annual reports to the Governor and the Legislature;

(6) A plan to reduce operation costs as a result of combining the agencies involved;

(7) Coordination and exchange among the departments of financial and programmatic information, including, but not limited to, medical records, client records, vital records, and other documents or data otherwise confidential; and

(8) All legislation, in draft form, necessary to grant authority to implement the recommendations, plans, and changes in existing programs, policies, and funding streams.

Sec. 5. The redesign of the agencies shall be accomplished based on the principles that a health and human services system should be:

(1) Preventive by making wise investments in strategies that promote safety and well-being;

(2) Integrated to assure that supports and services are coordinated, understandable, and efficient;

(3) Comprehensive and balanced in responsiveness to a range of needs from wellness to crisis;

(4) Family-centered and caring by building on the strengths of family relationships as a context for services;

(5) Community-based by forging state and community partnerships that encourage flexible service delivery while assuring high levels of accountability;

(6) Accessible in the form of information and services available to Nebraskans locally, financially, culturally, and conveniently;

(7) Outcome-based to assure that measurable results are achieved and reported by a well-informed management system;

(8) Fiscally sound by ensuring that financial and human resources are sufficiently invested and responsibly managed to assure progress on the outcomes in a unified and efficient health and human services system of care;

(9) Protective of vulnerable individuals and families as needed to assure their well-being and safety;

(10) Strength-based by using the assets of individuals, families, and communities as the basis for service; and

(11) One in which state government will serve as a facilitator and promoter of health and human services and not necessarily as a direct provider of such services and with consideration given to privatization.

Sec. 6. Effective January 1, 1997, all programs and functions of the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, and the Office of Juvenile Services of the Department of Correctional Services shall be transferred to three departments to be known as the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support.

Sec. 7. The functions and duties of the departments shall be as follows:

(1) The Department of Health and Human Services shall manage all health and human services system services and programs, whether contracted or delivered directly by the state, with responsibility to:

(a) Provide services in accordance with established policies, desired outcomes, priorities, and goals;

(b) Identify strategies jointly with communities for accomplishing identified goals and outcomes;



(c) Deliver services directly or by contract or grant to provide a quality of life for each citizen that reflects safety, self-sufficiency, respect, health and well-being, and opportunities for maximum participation through new partnerships between the state and communities;

(d) Work in partnership with communities and other public and private sector entities to support current best practices, integrate services and functions when possible, and find solutions that emphasize responsibility and local determination;

(e) Promote the development of community partnerships to ensure that needed services are available across Nebraska;

(f) Assure service coordination and access through public education and information, community resource development, technical assistance, and coordinated service management; and

(g) Develop a health and human services system focused on achieving outcomes based on needs of Nebraskans and accountable to Nebraskans;

(2) The Department of Health and Human Services Regulation and Licensure shall preserve the quality of the health and human services system based on outcomes and performance measures, with responsibility to:

(a) Develop evaluation measurements and analyze results throughout the health and human services system;

(b) Certify and license facilities and professionals;

(c) Evaluate services or programs to determine compliance with state, federal, or other contractual requirements;

(d) Develop, review, and revise rules and regulations in accordance with established systemwide policies and objectives;

(e) Coordinate with the Department of Health and Human Services to develop appropriate technical assistance, education, training, and joint problem-solving; and

(f) Provide a common-sense approach to regulation and licensure that focuses on the outcomes of the health and human services system and assures compliance consistent with those outcomes;

(3) The Department of Health and Human Services Finance and Support shall perform administrative activities, finance, and information management functions for all three departments, with responsibility to:

(a) Integrate and manage information systems across programs and functions, provide meaningful data to determine whether desired outcomes are achieved, and support policy development;

(b) Consolidate program funds of the departments whenever appropriate to accomplish desired results;

(c) Analyze financial status and impacts for the departments;

(d) Develop and manage a consistent accounting, contracting, disbursement, and fiscal compliance system; and

(e) Consolidate operational support services such as budget, information management, purchasing and procurement, personnel, audit, and contract management; and

(4) Nothing in the Nebraska Partnership for Health and Human Services Act shall be construed to prohibit the sharing of information among programs for the sole purpose of delivering services to individuals in order to provide coordinated services to such individuals. However, no confidential information shall be shared if prohibited by statute.

Sec. 8. The Governor shall appoint a health and human services system Policy Secretary to report to the Governor and to serve full time at the pleasure of the Governor. The Policy Secretary is subject to confirmation by a majority vote of the members of the Legislature. The Policy Secretary shall:

(1) Encourage and direct initiatives and collaboration in the health and human services system;

(2) Facilitate joint planning initiatives in the health and human services system;

(3) Coordinate budget, research, and data collection efforts to insure effectiveness of the health and human services system;

(4) Ensure that the Appropriations Committee of the Legislature is provided any information the committee requires to make funding determinations and budget recommendations to the Legislature, including, but not limited to, specific program budgets, internal budget requests, fiscal reports, and appearances by department, division, program, and subprogram directors before the committee to present department, division, program, and subprogram budget requests; and

(5) Recommend to the Legislature and the Governor legislation he or she deems necessary or appropriate.

Sec. 9. On and after January 1, 1997, the directors of the departments and the Policy Secretary shall work jointly as a Policy Cabinet to

achieve policy outcomes through development of policy objectives and strategic plans, to prepare and recommend budgets, to develop and establish consistent priorities and policies for allocation and distribution of resources, to establish procedures to promote and support collaborative community efforts or local service networks, to integrate the services of the departments, to evaluate that outcomes are achieved, and to make health and human services system improvements in accordance with the intent and purposes of the Nebraska Partnership for Health and Human Services Act. The Policy Secretary shall serve as the chairperson of the Policy Cabinet.

Sec. 10. The Health and Human Services System Partnership Council shall be established effective January 1, 1997. The purpose of the partnership council is to advise and assist the Policy Cabinet in the development of policy objectives and desired outcomes. The partnership council shall review and evaluate the extent to which the outcomes are achieved and shall make recommendations for health and human services system improvements to the Policy Cabinet. To accomplish this purpose, the partnership council shall:

(1) Obtain community perspective and participation as appropriate by holding public hearings, forming ad hoc advisory groups, or using other methods;

(2) Facilitate communication between broad-based community coalitions and the health and human services system;

(3) Serve as a link to community and local service networks and the health and human services system; and

(4) Perform such other specific duties as may be assigned by the Policy Cabinet.

Sec. 11. The Policy Secretary shall serve as the chairperson of the partnership council and shall be responsible for the general administration of the activities of the partnership council and for coordination of partnership council activities with those of the Policy Cabinet.

Sec. 12. The partnership council shall consist of not less than seven nor more than fifteen members. The Policy Secretary shall be one member and serve as the chairperson of the partnership council. The remaining members shall be appointed by the Governor with the consent of a majority of the Legislature.

Sec. 13. The terms of the members of the partnership council, other than the Policy Secretary, shall be three years, except that the terms of the initial members of the partnership council shall be staggered so that one-third of the members are appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years, as determined by the Governor. The appointment of each member shall expire on January 30 at the end of his or her term. If a vacancy occurs, the Governor shall appoint a new member to serve for the unexpired term.

Sec. 14. The members of the partnership council may receive a per diem of up to forty dollars per day while actually engaged in the business of the partnership council and shall be reimbursed for the necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177.

Sec. 15. The Director of Health and Human Services appointed by the Governor for the Department of Health and Human Services shall have a recognized and demonstrated expertise in and knowledge of the issues of health and human services delivery and administrative experience in an executive capacity.

Sec. 16. The powers and duties of the Department of Health and Human Services shall include, but are not limited to, the following:

(1) To operate as a member of the health and human services system in coordination with the Department of Health and Human Services Regulation and Licensure and the Department of Health and Human Services Finance and Support;

(2) To consult and cooperate with other state agencies so as to coordinate its activities in an effective manner with related activities in other agencies;

(3) To adopt and promulgate necessary rules and regulations to implement its programs and activities as required by state law or under federal law or regulation governing grants or contracts administered by the Department of Health and Human Services;

(4) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(5) To enter into such agreements as may be necessary or appropriate with the Department of Health and Human Services Finance and Support to

provide services and manage funds as provided under the Nebraska Partnership for Health and Human Services Act and sections 15 to 21 of this act, including the administration of federal funds granted to the state in the furtherance of the activities of the Department of Health and Human Services;

(6) To enter into such agreements with and among the Department of Health and Human Services Regulation and Licensure and the Department of Health and Human Services Finance and Support as may be necessary or appropriate to carry out the intent and purposes of the act and sections, which may include, but are not limited to, agreements for the transfer of personnel, for the authority of such department or departments to act as its agent in carrying out certain services or functions, or a portion of them, or for the joint implementation of public or private grants or performance of contracts;

(7) To seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and sections and the missions and purposes of the Department of Health and Human Services and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(8) To act as the agent of the federal government in matters of mutual concern in conformity with the act and sections and the scope of authority of the department as provided by law;

(9) To provide comprehensive information to the Legislature and the Appropriations Committee of the Legislature relating to funding requests for programs and subprograms;

(10) To carry out the functions described in subdivision (1) of section 7 of this act; and

(11) To perform such other duties as are provided by law.

Sec. 17. The Department of Health and Human Services Cash Fund is created and shall consist of funds from contracts, grants, gifts, or fees. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 18. On and after January 1, 1997, positions of employment in the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, and the Office of Juvenile Services of the Department of Correctional Services related to the powers, duties, and functions transferred to the Department of Health and Human Services pursuant to the Nebraska Partnership for Health and Human Services Act and sections 15 to 21 of this act are transferred to the Department of Health and Human Services. For purposes of the transition, employees of the agencies shall be considered employees of the department to which their positions were transferred and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the department or the director from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. The act and sections are not an amendment to or substitute for the provisions of any existing bargaining agreements.

Sec. 19. On January 1, 1997, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, and the Office of Juvenile Services of the Department of Correctional Services pertaining to the duties and functions transferred to the Department of Health and Human Services by the Nebraska Partnership for Health and Human Services Act and sections 15 to 21 of this act shall become the property of such department.

Sec. 20. On and after January 1, 1997, whenever the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, or the Office of Juvenile Services of the Department of Correctional Services is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Health and Human Services by the Nebraska Partnership for Health and Human Services Act and sections 15 to 21 of this act, such reference or designation shall apply to such department. All contracts entered into by the agencies prior to January 1, 1997, in connection with the duties and functions transferred to the department are hereby recognized, with the department succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the succeeding department for the payments of such



obligations. All licenses, certificates, registrations, permits, seals, or other forms of approval issued by the agencies in accordance with functions or duties transferred to the Department of Health and Human Services shall remain valid as issued under the names of the original agencies unless revoked or their effectiveness is otherwise terminated as provided by law. All documents and records transferred, or copies of the same, may be authenticated or certified by the Department of Health and Human Services for all legal purposes.

Sec. 21. All rules, regulations, and orders of the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, or the Office of Juvenile Services of the Department of Correctional Services adopted prior to January 1, 1997, in connection with the powers, duties, and functions transferred to the Department of Health and Human Services under the Nebraska Partnership for Health and Human Services Act and sections 15 to 21 of this act shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to January 1, 1997, or which could have been commenced prior to that date, by or against any of such agencies, or any director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from such agency to the Department of Health and Human Services.

On and after January 1, 1997, unless otherwise specified, whenever any provision of law refers to such agency or agencies in connection with duties and functions transferred to the Department of Health and Human Services, the law shall be construed as referring to such department.

Sec. 22. The Director of Regulation and Licensure appointed by the Governor for the Department of Health and Human Services Regulation and Licensure shall (1) have administrative experience in an executive capacity and some special training in public health work and (2) be either a graduate of a recognized school of medicine and licensed to practice medicine and surgery in the State of Nebraska or a person with a recognized and demonstrated expertise in and knowledge of health and human services delivery. If the director appointed is not a licensed physician, he or she shall appoint a health director to be responsible for the administration of public health programs and programs involving licensure and discipline of health professionals who is a graduate of a recognized school of medicine and licensed to practice medicine and surgery in the State of Nebraska and has some special training in public health work.

Sec. 23. The powers and duties of the Department of Health and Human Services Regulation and Licensure shall include, but are not limited to, the following:

(1) To operate as a member of the health and human services system in coordination with the Department of Health and Human Services and the Department of Health and Human Services Finance and Support;

(2) To consult and cooperate with other state agencies so as to coordinate its activities in an effective manner with related activities in other agencies;

(3) To adopt and promulgate necessary rules and regulations to implement its programs and activities as required by state law or under federal law or regulation governing grants or contracts administered by the Department of Health and Human Services Regulation and Licensure;

(4) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(5) To enter into such agreements as may be necessary or appropriate with the Department of Health and Human Services Finance and Support to provide services and manage funds as provided under the Nebraska Partnership for Health and Human Services Act and sections 22 to 28 of this act, including the administration of federal funds granted to the state in the furtherance of the activities of the Department of Health and Human Services Regulation and Licensure;

(6) To enter into such agreements with and among the Department of Health and Human Services and the Department of Health and Human Services Finance and Support as may be necessary or appropriate to carry out the intent and purposes of the act and sections, which may include, but are not limited to, agreements for the transfer of personnel, for the authority of such department or departments to act as its agent in carrying out services or functions, or a portion of them, or for the joint implementation of public or

private grants or performance of contracts;

(7) To seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and sections and the missions and purposes of the Department of Health and Human Services Regulation and Licensure and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(8) To contract with and act as the agent of the federal government in matters of mutual concern in conformity with the act and sections and the scope of authority of the department as provided by law;

(9) To provide comprehensive information to the Legislature and the Appropriations Committee of the Legislature relating to funding requests for programs and subprograms;

(10) To carry out the responsibilities described in subdivision (2) of section 7 of this act; and

(11) To perform such other duties as are provided by law.

Sec. 24. The Department of Health and Human Services Regulation and Licensure Cash Fund is created and shall consist of funds from contracts, grants, gifts, or fees. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 25. On and after January 1, 1997, positions of employment in the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, and the Office of Juvenile Services of the Department of Correctional Services related to the powers, duties, and functions transferred to the Department of Health and Human Services Regulation and Licensure pursuant to the Nebraska Partnership for Health and Human Services Act and sections 22 to 28 of this act are transferred to the Department of Health and Human Services Regulation and Licensure. For purposes of the transition, employees of the agencies shall be considered employees of the department to which their positions were transferred and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the department or the director from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. The act and sections are not an amendment to or substitute for the provisions of any existing bargaining agreements.

Sec. 26. On January 1, 1997, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, and the Office of Juvenile Services of the Department of Correctional Services pertaining to the duties and functions transferred to the Department of Health and Human Services Regulation and Licensure by the Nebraska Partnership for Health and Human Services Act and sections 22 to 28 of this act shall become the property of such department.

Sec. 27. On and after January 1, 1997, whenever the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, or the Office of Juvenile Services of the Department of Correctional Services is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Health and Human Services Regulation and Licensure by the Nebraska Partnership for Health and Human Services Act and sections 22 to 28 of this act, such reference or designation shall apply to such department. All contracts entered into by the agencies prior to January 1, 1997, in connection with the duties and functions transferred to the department are hereby recognized, with the department succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the succeeding department for the payments of such obligations. All licenses, certificates, registrations, permits, seals, or other forms of approval issued by the agencies in accordance with functions or duties transferred to the Department of Health and Human Services Regulation and Licensure shall remain valid as issued under the names of the original agencies unless revoked or their effectiveness is otherwise terminated as provided by law. All documents and records transferred, or copies of the same, may be authenticated or certified by the Department of Health and Human Services Regulation and Licensure for all legal purposes.

Sec. 28. All rules, regulations, and orders of the Department on



Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, or the Office of Juvenile Services of the Department of Correctional Services adopted prior to January 1, 1997, in connection with the powers, duties, and functions transferred to the Department of Health and Human Services Regulation and Licensure under the Nebraska Partnership for Health and Human Services Act and sections 22 to 28 of this act, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to January 1, 1997, or which could have been commenced prior to that date, by or against any of such agencies, or any director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from such agency to the Department of Health and Human Services Regulation and Licensure.

On and after January 1, 1997, unless otherwise specified, whenever any provision of law refers to such agency or agencies in connection with duties and functions transferred to the Department of Health and Human Services Regulation and Licensure, such law shall be construed as referring to such department.

Sec. 29. The Director of Finance and Support appointed by the Governor for the Department of Health and Human Services Finance and Support shall have administrative experience in financial management in an executive capacity.

Sec. 30. The powers and duties of the Department of Health and Human Services Finance and Support shall include, but are not limited to, the following:

(1) To operate as a member of the health and human services system in coordination with the Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure;

(2) To consult and cooperate with other state agencies so as to coordinate its activities in an effective manner with related activities in other agencies;

(3) To adopt and promulgate necessary rules and regulations to implement its programs and activities as required by state law or under federal law or regulation governing grants or contracts administered by the Department of Health and Human Services Finance and Support;

(4) Under the direction and guidance of the Adjutant General and the Nebraska Emergency Management Agency, to coordinate assistance programs established by the Adjutant General under section 81-829.72 with the programs of the department;

(5) To enter into such agreements as may be necessary or appropriate for it to provide services and manage funds of the Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure as provided under the Nebraska Partnership for Health and Human Services Act and sections 29 to 35 of this act, including the administration of federal funds granted to the state in the furtherance of the activities of the Department of Health and Human Services Finance and Support;

(6) To enter into such agreements with and among the Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure as may be necessary or appropriate to carry out the intent and purposes of the act and sections, which may include, but are not limited to, agreements for the transfer of personnel, for the authority of such department or departments to act as its agent in carrying out services or functions, or a portion of them, or for the joint implementation of public or private grants or performance of contracts;

(7) To seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and sections and the missions and purposes of the Department of Health and Human Services Finance and Support and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(8) To contract with and act as the agent of the federal government in matters of mutual concern in conformity with the act and sections and the scope of authority of the department as provided by law;

(9) To provide comprehensive information to the Legislature and the Appropriations Committee of the Legislature relating to funding requests for programs and subprograms;

(10) To carry out the responsibilities described in subdivision (3) of section 7 of this act; and

(11) To perform such other duties as are provided by law.

Sec. 31. The Department of Health and Human Services Finance and

Support Cash Fund is created and shall consist of funds from contracts, grants, gifts, or fees. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 32. On and after January 1, 1997, positions of employment in the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, and the Office of Juvenile Services of the Department of Correctional Services related to the powers, duties, and functions transferred to the Department of Health and Human Services Finance and Support pursuant to the Nebraska Partnership for Health and Human Services Act and sections 29 to 35 of this act shall be transferred to the Department of Health and Human Services Finance and Support. For purposes of the transition, employees of the agencies shall be considered employees of the department to which their positions were transferred and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the department or the director from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. The act and sections are not an amendment to or substitute for the provisions of any existing bargaining agreements.

Sec. 33. On January 1, 1997, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, and the Office of Juvenile Services of the Department of Correctional Services pertaining to the duties and functions transferred to the Department of Health and Human Services Finance and Support by the Nebraska Partnership for Health and Human Services Act and sections 29 to 35 of this act shall become the property of such department.

Sec. 34. On and after January 1, 1997, whenever the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, or the Office of Juvenile Services of the Department of Correctional Services is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Health and Human Services Finance and Support by the Nebraska Partnership for Health and Human Services Act and sections 29 to 35 of this act, such reference or designation shall apply to such department. All contracts entered into by the agencies prior to January 1, 1997, in connection with the duties and functions transferred to the department are hereby recognized, with the department succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the succeeding department for the payments of such obligations. All licenses, certificates, registrations, permits, seals, or other forms of approval issued by the agencies in accordance with functions or duties transferred to the Department of Health and Human Services Finance and Support shall remain valid as issued under the names of the original agencies unless revoked or their effectiveness is otherwise terminated as provided by law. All documents and records transferred, or copies of the same, including birth certificates and other vital records, may be authenticated or certified by the Department of Health and Human Services Finance and Support for all legal purposes.

Sec. 35. All rules, regulations, and orders of the Department on Aging, the Department of Health, the Department of Public Institutions, the Department of Social Services, or the Office of Juvenile Services of the Department of Correctional Services adopted prior to January 1, 1997, in connection with the powers, duties, and functions transferred to the Department of Health and Human Services Finance and Support under the Nebraska Partnership for Health and Human Services Act and sections 29 to 35 of this act, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to January 1, 1997, or which could have been commenced prior to that date, by or against any of such agencies, or any director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from such agency to the Department of Health and Human Services Finance and Support.

On and after January 1, 1997, unless otherwise specified, whenever

any provision of law refers to such agency or agencies in connection with duties and functions transferred to the Department of Health and Human Services Finance and Support, the law shall be construed as referring to such department.

Sec. 36. Section 2-1504.02, Revised Statutes Supplement, 1994, is amended to read:

2-1504.02. The Nebraska Natural Resources Commission shall establish a technical advisory committee to assist it in the performance of its duties. The committee shall consist of the director of the Conservation and Survey Division of the University of Nebraska, the director of the Water Center of the University of Nebraska, the dean or director of the Cooperative Extension Service of the University of Nebraska, the Director of Water Resources, a representative of the office of the Governor, a representative of the Department of Health Department of Health and Human Services Regulation and Licensure, a representative of the Department of Environmental Quality, a representative of the Department of Economic Development, a representative of the Department of Roads, a representative of the Game and Parks Commission, and one representative each from the United States Army Corps of Engineers, Department of Agriculture, and Department of the Interior if named to so serve by their respective secretaries.

Sec. 37. Section 2-15,100, Revised Statutes Supplement, 1994, is amended to read:

2-15,100. The state water planning and review process shall be conducted under the guidance and general supervision of the Director of Natural Resources. The Nebraska Natural Resources Commission shall approve the form and content of all reports produced through the planning process. The director shall be assisted in the state water planning and review process by the Department of Water Resources, the Game and Parks Commission, the Department of Agriculture, the Governor's Policy Research Office, the Department of Health Department of Health and Human Services Regulation and Licensure, the Department of Environmental Quality, the Water Center of the University of Nebraska, and the Conservation and Survey Division of the University of Nebraska. In addition, the director may obtain assistance from any private individual, organization, political subdivision, or agency of the state or federal government.

Sec. 38. Section 2-2626, Revised Statutes Supplement, 1994, is amended to read:

2-2626. The department shall have the following powers, functions, and duties:

(1) To administer, implement, and enforce the Pesticide Act and serve as the lead state agency for the regulation of pesticides. The department shall involve the natural resources districts and other state agencies, including the Department of Environmental Quality, the Nebraska Natural Resources Commission, the Department of Water Resources, or the Department of Health Department of Health and Human Services Regulation and Licensure, in matters relating to water quality. Nothing in the act shall be interpreted in any way to affect the powers of any other state agency or of any natural resources district to regulate for ground water quality or surface water quality as otherwise provided by law;

(2) To be responsible for the development and implementation of a state management plan for the prevention, evaluation, and mitigation of occurrences of pesticides or pesticide breakdown products in ground water and surface water of the state. The Department of Environmental Quality shall be responsible for the adoption of standards for pesticides in surface water and ground water, and the Department of Health Department of Health and Human Services Regulation and Licensure shall be responsible for the adoption of standards for pesticides in drinking water. These standards shall be established as action levels in the state management plan at which prevention and mitigation measures are implemented. Such action levels may be set at or below the maximum contaminant level set for any product as set by the federal agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq. The department shall cooperate with and use existing expertise in other state agencies when developing a state management plan and shall not hire a hydrologist within the department for such purpose. As part of the state management plan and after notice and public hearing, the department may adopt and promulgate rules and regulations providing lists of state-limited-use pesticides for the entire state or for a designated area within the state, subject to the following:

(a) A pesticide may be included on a list of state-limited-use pesticides if:

(1) The department determines that the pesticide, when applied in accordance with its directions for use, warnings, and cautions and for uses

for which it is registered, may without additional regulatory restrictions cause unreasonable adverse effects on humans or the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticides;

(ii) The water quality standards set by the Department of Environmental Quality or the Department of Health Department of Health and Human Services Regulation and Licensure pursuant to this section are exceeded; or

(iii) The department determines that the pesticide requires additional restrictions to meet the requirements of the Pesticide Act, the federal act, or any plan adopted under the Pesticide Act or the federal act;

(b) The department may regulate the time and conditions of use of a state-limited-use pesticide and may require that it be purchased or possessed only:

(i) With permission of the department;

(ii) Under direct supervision of the department or its designee in certain areas and under certain conditions;

(iii) In specified quantities and concentrations or at specified times; or

(iv) According to such other restrictions as the department may set by regulation;

(c) The department may require a person authorized to distribute or use a state-limited-use pesticide to maintain records of the person's distribution or use and may require that the records be kept separate from other business records;

(d) The state management plan shall be coordinated with the department and other state agency plans and with other state agencies and with natural resources districts; and

(e) The state management plan may impose progressively more rigorous pesticide management practices as pesticides are detected in ground water or surface water at increasing fractions of the standards adopted by the Department of Environmental Quality or the Department of Health Department of Health and Human Services Regulation and Licensure;

(3) To adopt and promulgate such rules and regulations as are necessary for the enforcement and administration of the Pesticide Act. There is hereby created a Rules and Regulations Advisory Committee consisting of the Director of Agriculture, Director of Environmental Quality, Director of Natural Resources, Director of Water Resources, and Director of Health Director of Regulation and Licensure or the designated representative of any of such directors. The committee shall advise the Department of Agriculture in the adoption and promulgation of such rules and regulations as are necessary for the enforcement and administration of the act. The regulations shall include, but not be limited to, regulations providing for:

(a) The collection of samples, examination of records, and reporting of information by persons subject to the act;

(b) The safe handling, transportation, storage, display, distribution, use, and disposal of pesticides and their containers;

(c) Labeling requirements of all pesticides required to be registered under provisions of the act, except that such regulations shall not impose any requirements for federally registered labels contrary to those required pursuant to the federal act;

(d) Classes of devices which shall be subject to the Pesticide Act;

(e) Reporting and record-keeping requirements for persons distributing or using pesticide products made available under section 136p of the federal act;

(f) Methods to be used in the application of pesticides when the department finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Act. Such regulations may include methods to be used in the application of a restricted-use pesticide, may relate to the time, place, manner, methods, materials, amounts, and concentrations in connection with the application of the pesticide, and may restrict or prohibit use of the pesticides in designated areas during specified periods of time. The regulations shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to (i) plants, including forage plants, or adjacent or nearby lands, (ii) wildlife in the adjoining or nearby areas, (iii) fish and other aquatic life in waters in reasonable proximity to the area to be treated, (iv) surface water or ground water, and (v) humans, animals, or beneficial insects. In adopting and promulgating such regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government, or other reliable sources. The department may, by regulation, require that notice of a proposed application of a pesticide be

given to landowners whose property is adjacent to the property to be treated or in the immediate vicinity thereof if the department finds that such notice is necessary to carry out the purpose of the act;

(g) State-limited-use pesticides for the state or for designated areas in the state;

(h) Establishment of the amount of any fee or fine as directed by the act; and

(i) Establishment of the components of any state management plan;

(4) To enter any public or private premises at any reasonable time to:

(a) Inspect and sample any equipment authorized or required to be inspected under the act or to inspect the premises on which the equipment is kept or stored;

(b) Inspect or sample any area exposed or reported to be exposed to a pesticide or where a pesticide application has been made;

(c) Inspect and sample any area where a pesticide is disposed of or stored;

(d) Observe the use and application of and sample any pesticide;

(e) Inspect and copy any records relating to the distribution or use of any pesticide or the issuance of any license or registration under the act; or

(f) Inspect, examine, or take samples from any building or place owned, controlled, or operated by a registrant, certified applicator, or dealer if, from probable cause, it appears that the building or place contains a pesticide;

(5) To sample, inspect, make analysis of, and test any pesticide found within this state;

(6) To issue and enforce a written or printed order to stop the sale, removal, or use of a pesticide if the department has reason to believe that the pesticide is in violation of any provision of the act. The department shall present the order to the owner or custodian of the pesticide. The person who receives the order shall not distribute, remove, or use the pesticide until the department determines that the pesticide is in compliance with the act. This subdivision shall not limit the right of the department to proceed as authorized by any other provision of the act;

(7)(a) To sue in the name of the director to enjoin any violation of the act. Venue for such action shall be in the county in which the alleged violation occurred, is occurring, or is threatening to occur; and

(b) To request the county attorney or the Attorney General to bring suit to enjoin a violation or threatened violation of the act;

(8) To impose or levy an administrative fine of not more than five thousand dollars on any person who has violated the provisions, requirements, conditions, limitations, or duties imposed by the act. A violation shall mean any separate activity or day in which an activity takes place;

(9) To cause a written complaint to be served upon the alleged violator or violators whenever the director has reason to believe that a violation of any provision of the act, a rule or regulation under the act, or any order of the department has occurred. The complaint shall specify the provision of the act, rule, regulation, or order alleged to be violated and the facts alleged to constitute a violation and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless each person named in the order requests in writing a hearing before the director and answers the charges complained of at a time and a place specified in the notice. In lieu of such order, the director may require that the alleged violator appear before the director at a time and place specified in the notice and answer the charges complained of;

(10) To take measures necessary to ensure that all fees, fines, and penalties prescribed by the act and the rules or regulations adopted under the act are assessed and collected;

(11) To access, inspect, and copy all books, papers, records, bills of lading, invoices, and other information relating to the use and distribution of pesticides necessary for the enforcement of the act;

(12) To seize, for use as evidence, without formal warrant if probable cause exists, any pesticide which is in violation of the act or is not approved by the department or which is found to be used or distributed in the violation of the act or the rules and regulations adopted and promulgated under it;

(13) To declare as a pest any form of plant or animal life, other than humans and other than bacteria, viruses, and other microorganisms on or in living humans or other living animals, which is injurious to health or the environment;



(14) To adopt classifications of restricted-use pesticides as determined by the federal agency under the federal act. In addition to the restricted-use pesticides classified by the administrator, the department may also determine state-limited-use pesticides for the state or for designated areas within the state as provided in subdivision (2) of this section;

(15) To receive grants-in-aid from any federal entity, and to enter into cooperative agreements with any federal entity, any agency of this state, any subdivision of this state, any agency of another state, any Indian tribe, or any private person for the purpose of obtaining assistance in the implementation of the Pesticide Act. The department may reimburse any such entity from the Pesticide Administrative Cash Fund for the work performed under the cooperative agreement. The department may delegate its administrative responsibilities under the act to cities of the metropolitan and primary classes if it reasonably believes that such cities can perform the responsibilities in a manner consistent with the act and the rules and regulations adopted and promulgated under it;

(16) To prepare and adopt such plans as are necessary to implement any requirements of the federal agency under the federal act;

(17) To request the assistance of the Attorney General or the county attorney in the county in which a violation of the Pesticide Act has occurred with the prosecution or enforcement of any violation of the act;

(18) To enter into a settlement agreement with any person regarding the disposition of any license, permit, or administrative fine;

(19) To issue, cancel, suspend, modify, or place on probation any license or permit issued pursuant to the act; and

(20) To make such reports to the federal agency as are required under the federal act.

Sec. 39. Section 2-3254, Revised Statutes Supplement, 1994, is amended to read:

2-3254. (1) The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of an improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition, and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition, such hearing shall be held within one hundred twenty days of the filing of such petition. Notice of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district. Landowners within the limits of the territory described in the petition and all other interested parties, including any appropriate agencies of state or federal government, shall have the right to be heard. If the board finds, after consultation with such appropriate agencies of state and federal government and after the hearing, that the project conforms with the goals, criteria, and policies of sections 2-3201 to 2-3257 and 2-32,109 to 2-32,114, it shall enter its findings in the board's official records and shall, with the aid of such engineers, surveyors, and other assistants as it may have chosen, establish an improvement project area, proceed to make detailed plans and cost estimates, determine the total benefits, and carry out the project as provided in subsections (2) and (3) of this section. If the board finds that the project does not conform with such sections, the findings shall be entered in the board's records and copies of such findings shall be furnished to the petitioners and the commission.

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, all plans and specifications for the project shall be filed with the secretary of the district and the Director of Water Resources, except that if such project involves a public water supply system as defined in section 71-5301, the filing of the information shall be with the Department of Health Department of Health and Human Services Regulation and Licensure rather than the Director of Water Resources. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Director of Water Resources and the Department of Health Department of

Health and Human Services Regulation and Licensure, if applicable, except that if such special project involves a public water supply system as defined in section 71-5301, only the Department of Health Department of Health and Human Services Regulation and Licensure shall be required to review such plans and specifications and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental regulations adopted under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges levied upon such parcel of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received. Nothing contained in this section shall prevent the district from establishing separate areas within the project improvement area so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any project improvement area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the project improvement area stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person or by counsel or may file written objections thereto. The directors shall then proceed to hear and consider the same and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the project improvement area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such project in accordance with the

apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such improvement project area and apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return lists of such tracts with the amounts chargeable to each of the county clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

Sec. 40. Section 2-3925, Revised Statutes Supplement, 1994, is amended to read:

2-3925. The dairy farm water supply shall be safe, clean, and ample for the cleaning of dairy utensils and equipment. The water supply shall meet the bacteriological standards established by the Department of Health Department of Health and Human Services Regulation and Licensure at all times. Water samples shall be taken, analyzed, and found to be in compliance with the requirements of the Nebraska Manufacturing Milk Act prior to the issuance of a permit to the producer and whenever any major change to the well or water source occurs. Wells or water sources which do not meet the construction standards of the Department of Health Department of Health and Human Services Regulation and Licensure shall be tested annually, and wells which do meet the construction standards of the Department of Health Department of Health and Human Services Regulation and Licensure shall be tested every three years. Whenever major alterations or repairs occur or a water source repeatedly recontaminates, the water supply shall be unacceptable until such time as the construction standards are met and an acceptable supply is demonstrated. On and after October 1, 1989, all new producers issued permits under the Nebraska Manufacturing Milk Act shall be required to meet the construction standards established by the Department of Health Department of Health and Human Services Regulation and Licensure for private water supplies.

Sec. 41. Section 2-3928, Revised Statutes Supplement, 1994, is amended to read:

2-3928. (1) At the dairy plant and the receiving station, there shall be an ample supply of both hot and cold water of safe and sanitary quality with adequate facilities for its proper distribution throughout the plant and protected against contamination. Water from other facilities, when officially approved, may be used for boiler feed water and condenser water so long as such water lines are completely separated from the water lines carrying the sanitary water supply and the equipment is so constructed and controlled as to preclude contamination of product contact surfaces. There shall be no cross-connection between potable water lines and nonpotable water lines or between public and private water supplies. Bacteriological examinations shall be made of the plant's sanitary water supply which shall include water extracted from milk and cooling water taken at the plant at least twice each year. The results of all water tests shall be kept on file at the plant for which the test was performed.

(2) The location, construction, and operation of any well shall comply with rules and regulations of the Department of Health Department of Health and Human Services Regulation and Licensure.

(3) Drinking water facilities of a sanitary type shall be provided in the plant and should be conveniently located.

(4) Convenient hand-washing facilities shall be provided, including hot and cold running water, soap or other detergents, and sanitary single-service towels or air driers. Such accommodations shall be located in or adjacent to toilet and dressing rooms and also at such other places in the plant as may be essential to the cleanliness of all personnel handling products. Vats for washing equipment or utensils shall not be used as hand-washing facilities. Containers shall be provided for used towels and other wastes. The containers may be metal or plastic, may be disposable or

reusable, and shall have self-closing covers.

(5) Steam shall be supplied in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment. Culinary steam used in direct contact with milk or dairy products shall be free from harmful substances or extraneous material and only those boiler water additives approved by the department shall be used, or a secondary steam generator shall be used, in which soft water is converted to steam and no boiler compounds are used. Steam traps, strainers, and condensate traps shall be used wherever applicable to insure a satisfactory and safe steam supply. Culinary steam shall comply with the recommended practices for Producing Culinary Steam for Processing Milk and Milk Products as published by the National Association of Food and Dairy Equipment Manufacturers on July 1, 1993.

(6) The method for supplying air under pressure which comes in contact with milk or dairy products or any product contact surfaces shall comply with the 3-A Accepted Practices for Supplying Air Under Pressure in effect July 1, 1993.

(7) Dairy wastes shall be properly disposed of from the plant and premises. The sewer system shall have sufficient slope and capacity to readily remove all waste from the various processing operations. Where a public sewer is not available, all wastes shall be properly disposed of so as not to contaminate milk equipment or to create a nuisance or public health hazard. Containers used for the collection and holding of wastes shall be constructed of metal, plastic, or other equally impervious material and kept covered with tight-fitting lids. Waste shall be stored in an area or room in a manner to protect it from flies and vermin. Solid wastes shall be disposed of regularly and the containers cleaned before reuse. Accumulation of dry wastepaper and cardboard shall be kept to a minimum and disposed of in a manner that is environmentally acceptable.

Sec. 42. Section 2-3932, Reissue Revised Statutes of Nebraska, is amended to read:

2-3932. No person with any disease in a communicable form, or who is a carrier of such disease, shall work at any dairy farm or milk plant in any capacity which brings him or her into contact with the production, handling, storage, or transportation of milk, milk products, containers, or equipment, and no dairy farm or milk plant shall employ in any such capacity any such person, or any person suspected of having any disease in a communicable form, or of being a carrier of such disease. Any producer or distributor of milk or milk products upon whose dairy farm, or in whose milk plant, any communicable disease occurs, or who suspects that any employee has contracted any disease in a communicable form or has become a carrier of such disease, shall notify the director immediately who shall immediately notify the local board of health or the Department of Health Department of Health and Human Services Regulation and Licensure.

When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of milk or milk products, the director may require any or all of the following measures: (1) The immediate exclusion of that person from milk handling; (2) the immediate exclusion of the milk supply concerned from distribution and use; or (3) adequate medical and bacteriological examination of the person, or his or her associates, and of his or her and their body discharges.

Sec. 43. Section 2-4901, Revised Statutes Supplement, 1994, is amended to read:

2-4901. (1) The Climate Assessment Response Committee is hereby created. The office of the Governor shall be the lead agency and shall oversee the committee and its activities. The committee shall be composed of representatives appointed by the Governor with the approval of a majority of the Legislature from livestock producers, crop producers, and the Civil Defense Agency, Conservation and Survey Division and Cooperative Extension Service of the University of Nebraska, Department of Agriculture, Department of Health Department of Health and Human Services Regulation and Licensure, Department of Water Resources, Governor's Policy Research Office, and Nebraska Natural Resources Commission. Representatives from the federal Agricultural Stabilization and Conservation Service and Federal Crop Insurance Corporation may also serve on the committee at the invitation of the Governor. The Governor may appoint the chairperson of the Agriculture Committee and the chairperson of the Natural Resources Committee of the Legislature and any other state agency representatives or invite any other federal agencies to name representatives as he or she deems necessary. The Governor shall appoint one of the committee members to serve as the chairperson of the committee. Committee members shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(2) The committee shall meet at least twice each year and shall meet

more frequently (a) at the call of the chairperson, (b) upon request of a majority of the committee members, and (c) during periods of drought or other severe climate situations.

(3) The chairperson may establish subcommittees and may invite representatives of agencies other than those with members on the committee to serve on such subcommittees.

(4) Any funds for the activities of the committee and for other climate-related expenditures may be appropriated directly to the office of the Governor for contracting with other agencies or persons for tasks approved by the committee.

Sec. 44. Section 9-810, Revised Statutes Supplement, 1994, is amended to read:

9-810. (1) A person under nineteen years of age shall not purchase a lottery ticket. No lottery ticket shall be sold to any person under nineteen years of age. No person shall purchase a lottery ticket for a person under nineteen years of age, and no person shall purchase a lottery ticket for the benefit of a person under nineteen years of age.

(2) No lottery ticket shall be sold and no prize shall be awarded to the Tax Commissioner, the director, or any employee of the division or any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of abode of the Tax Commissioner, the director, or any employee of the division.

(3) With respect to a lottery game retailer under contract to sell lottery tickets whose rental payment for premises is contractually computed in whole or in part on the basis of a percentage of retail sales and when the computation of retail sales is not explicitly defined to include the sale of lottery tickets, the amount of retail sales for lottery tickets by the retailer for purposes of such a computation may not exceed the amount of compensation received by the retailer from the division.

(4) Once any prize is awarded in conformance with the State Lottery Act and any rules and regulations adopted under the act, the state shall have no further liability with respect to that prize.

(5) Prior to the payment of any lottery prize in excess of five hundred dollars for a winning lottery ticket presented for redemption to the division, the division shall check the name and social security number of the winner with a list provided by the Department of Revenue of people identified as having an outstanding state tax liability and a list of people certified by the Department of Social Services Department of Health and Human Services Finance and Support as owing a debt as defined in section 77-27,161. The division shall credit any such lottery prize against any outstanding state tax liability owed by such winner and the balance of such prize amount, if any, shall be paid to the winner by the division. The division shall credit any such lottery prize against any certified debt in the manner set forth in sections 77-27,160 to 77-27,173. If the winner has both an outstanding state tax liability and a certified debt, the division shall add the liability and the debt together and pay the appropriate agency or person a share of the prize in the proportion that the liability or debt owed to the agency or person is to the total liability and debt.

Sec. 45. Section 11-201, Revised Statutes Supplement, 1994, is amended to read:

11-201. It shall be the duty of the Risk Manager:

(1) To prescribe the amount, terms, and conditions of any bond when the amount or terms are not fixed by any specific statute. The Risk Manager, in prescribing the amount, deductibles, conditions, and terms, shall consider the type of risks to be bonded, the relationship of the bond premium to risks involved, the past and projected trends for bond premiums, the ability of the Tort Claims Fund, the State Self-Insured Property Fund, and state agencies to pay the deductibles, and any other factors the manager may, in his or her discretion, deem necessary in order to accomplish the provisions of sections 2-1201, 3-103, 8-104, 8-105, 11-119, 11-121, 11-201, 48-158, 48-609, 48-618, 48-721, 48-804.03, 53-109, 55-123, 55-126, 55-127, 55-150, 57-917, 60-1303, 60-1502, 68-703, 71-1,132.11, 71-1,206.13, 71-222.01, 72-1241, 80-401.02, 81-111, 81-151, 81-811, 81-8,128, 81-1108.14, 81-2002, ~~83-101-02~~ 83-128, 84-106, 84-206, and 84-801;

(2) To pass upon the sufficiency of and approve the surety on the bonds of all officers and employees of the state, when approval is not otherwise prescribed by any specific statute;

(3) To arrange for the writing of corporate surety bonds for all the officers and employees of the state who are required by statute to furnish bonds;

(4) To arrange for the writing of the blanket corporate surety bond required by this section; and



(5) To order the payment of corporate surety bond premiums out of the State Insurance Fund created by section 81-8,239.02.

All state employees not specifically required to give bond by section 11-119 shall be bonded under a blanket corporate surety bond for faithful performance and honesty in an amount not to exceed one million dollars.

The Risk Manager may separately bond any officer, employee, or group thereof under a separate corporate surety bond for performance and honesty pursuant to the standards set forth in subdivision (1) of this section if the corporate surety will not bond or excludes from coverage any officer, employee, or group thereof under the blanket bond required by this section, or if the Risk Manager finds that the reasonable availability or cost of the blanket bond required under this section is adversely affected by any of the following factors: The loss experience, types of risks to be bonded, relationship of bond premium to risks involved, past and projected trends for bond premiums, or any other factors.

Surety bonds of public power district directors, as required by section 70-617, collection agencies, as required by section 45-608 and detective agencies, as required by section 71-3207 shall be approved by the Secretary of State. The Attorney General shall approve all bond forms distributed by the Secretary of State.

Sec. 46. Section 12-102, Reissue Revised Statutes of Nebraska, is amended to read:

12-102. The trustees shall subdivide, set apart and dedicate that portion of said cemetery located at Lincoln which has heretofore been used for the burial of the dead from the various state institutions and which is legally described as follows, to wit: Beginning at a point 749 feet North and 392 feet East of the S.W. corner of the E 1/2 of the SE 1/4 of Section 19, T. 10, N.R. 7, E. 6th P.M. which is 46 1/2 feet North of the S.W. corner of lot 2911 in burial Section No. 9 in Wyuka Cemetery, thence North 75 feet to the N.W. corner of the Home for the Friendless Plot, according to the original plat of said cemetery, thence on a curve through an arc of 58 degrees 25' having a radius of 128 feet, the center of which is 183 feet North and 60 feet East of the place of beginning, to a point 77 feet North and 126 feet East of the place of beginning, and thence on a curve through an arc of 81 degrees 06' having a radius of 100 feet the center of which is 17 feet South and 163 feet East of the place of beginning, to a point at the East end of the Home for the Friendless Plot aforesaid, which is 37 1/2 feet North and 250 feet East of the place of beginning; thence on a curve through an arc of 81 degrees 06' having a radius of 100 feet the center of which is 88 feet North and 165 feet East of the place of beginning to a point 3 feet South and 125 feet East, of the place of beginning; thence on a curve through an arc of 58 degrees 25' having a radius of 128 feet the center of which is 107 feet South and 57 feet East of the place of beginning, to the place of beginning, containing 15,835 square feet, or 0.36 acres, situated in Lancaster County, Nebraska. The part so set aside and dedicated shall be under the joint control of the trustees of Wyuka Cemetery and the Department of Public Institutions Department of Health and Human Services.

Sec. 47. Section 12-607, Revised Statutes Supplement, 1994, is amended to read:

12-607. It shall be unlawful for any firm, person, partnership, limited liability company, or corporation to construct, erect, remodel, or extend any structure to be used as a public mausoleum, public vault, or public burial structure until such person, firm, partnership, limited liability company, or corporation has:

(1) Submitted to the Department of Health Department of Health and Human Services Regulation and Licensure complete plans and specifications, prepared by an architect or engineer registered to practice in the State of Nebraska, for such public mausoleum or other structure for use, by members of the public, for interment space;

(2) Obtained from the department a certificate that the detailed plans and specifications are approved and obtained such certificate before construction is commenced; and

(3) Filed the certificate with the office of the clerk of the county wherein the structure is to be erected as a public record.

Sec. 48. Section 12-609, Revised Statutes Supplement, 1994, is amended to read:

12-609. Any person, firm, partnership, limited liability company, or corporation engaged in the construction or erection of a mausoleum or structure which is intended upon its completion to be available to members of the public for interment of human remains or is intended to contain dead bodies shall, after obtaining approval of the plans and specifications

required by section 12-607, during the period of construction, permit the Department of Health Department of Health and Human Services Regulation and Licensure or any person designated by it to come upon the premises where such construction is taking place and examine the various steps and stages of construction.

Sec. 49. Section 12-610, Reissue Revised Statutes of Nebraska, is amended to read:

12-610. The Department of Health Department of Health and Human Services Regulation and Licensure, before issuing any certificate approving plans or specifications for the construction or erection of a mausoleum, columbarium, or other similar structure for the interring of dead bodies or human remains, shall:

(1) Examine the plans and specifications and determine that the materials, of which ~~said~~ such structure is to be constructed, are of the best quality and character, and best suited for the purposes intended, ~~and~~ that it will be so constructed to insure the durability and permanence, and that an adequate provision for proper drainage and ventilation is provided;

(2) Provide that the construction and erection of such structure ~~or structures~~ be under the supervision of an inspector, to be appointed by the department, and determine the amount of compensation for the inspector, which compensation shall be paid by the person erecting the structure; and

(3) Be authorized to go upon the premises at any time during or after construction and make an inspection to determine that construction is in accordance with the plans and specifications so submitted.

Sec. 50. Section 12-611, Reissue Revised Statutes of Nebraska, is amended to read:

12-611. No structure, erected under the provisions of sections 12-603 and 12-606 to 12-618, shall be used for the purpose of interring any dead body, until there has been obtained from the Department of Health, Department of Health and Human Services Regulation and Licensure a final certificate properly signed. This certificate shall show that the plans and specifications, as filed, have been complied with fully, in every particular. The certificate shall be filed with the clerk of the county in which the structure is located.

Sec. 51. Section 12-612, Reissue Revised Statutes of Nebraska, is amended to read:

12-612. The Department of Health Department of Health and Human Services Regulation and Licensure shall have the duty and authority to make such inspections as are necessary after completion of the columbarium or mausoleum and, from time to time, to determine that the structure is being properly maintained.

Sec. 52. Section 12-1106, Reissue Revised Statutes of Nebraska, is amended to read:

12-1106. At the written request of the pre-need purchaser, the first three thousand dollars paid by the pre-need purchaser which is placed in trust by the pre-need seller may be designated as irrevocable in accordance with the rules and regulations of the Department of Social Services Department of Health and Human Services. Upon default or cancellation any trust funds designated as irrevocable shall be governed by section 12-1113.

Sec. 53. Section 13-1207, Reissue Revised Statutes of Nebraska, is amended to read:

13-1207. Prior to the promulgation of rules and regulations pursuant to section 13-1212, and prior to the awarding of federal or state funds under any program administered by the department or any other state agency which affects the transportation of the elderly, such rules and regulations and the awarding of such funds shall be reviewed by the Director on Aging of Health and Human Services.

Sec. 54. Section 14-402, Revised Statutes Supplement, 1994, is amended to read:

14-402. (1) For any or all of the purposes listed in section 14-401, the city council may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of sections 14-401 to 14-418. Within such districts the city council may regulate, restrict, or prohibit the erection, construction, reconstruction, alteration, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations applicable to one district may differ from those applicable to other districts.

(2)(a) The city council shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which

indicates that it was constructed in accordance with the standards of the Department of Health Department of Health and Human Services Regulation and Licensure or the United States Department of Housing and Urban Development. The city council may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. The city council may also require that manufactured homes meet the following standards:

- (i) The home shall have no less than nine hundred square feet of floor area;
- (ii) The home shall have no less than an eighteen-foot exterior width;
- (iii) The roof shall be pitched with a minimum vertical rise of two
- (iv) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
- (v) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
- (vi) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(b) The city council may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.

(c) Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(3) For purposes of this section, manufactured home shall mean (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in section 71-1557 bearing the seal of the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 55. Section 15-902, Revised Statutes Supplement, 1994, is amended to read:

15-902. (1) Every city of the primary class shall have power in the area which is within the city or within three miles of the corporate limits of the city and outside of any organized city or village to regulate and restrict: (a) The location, height, bulk, and size of buildings and other structures; (b) the percentage of a lot that may be occupied; (c) the size of yards, courts, and other open spaces; (d) the density of population; and (e) the locations and uses of buildings, structures, and land for trade, industry, business, residences, and other purposes. Such city shall have power to divide the area zoned into districts of such number, shape, and area as may be best suited to carry out the purposes of this section and to regulate, restrict, or prohibit the erection, construction, reconstruction, alteration, or use of buildings, structures, or land within the total area zoned or within districts. All such regulations shall be uniform for each class or kind of buildings throughout each district, but regulations applicable to one district may differ from those applicable to other districts. Such zoning regulations shall be designed to secure safety from fire, flood, and other dangers and to promote the public health, safety, and general welfare and shall be made with consideration having been given to the character of the various parts of the area zoned and their peculiar suitability for particular uses and types of development and with a view to conserving property values and encouraging the most appropriate use of land throughout the area zoned, in accordance with a comprehensive plan. Such zoning regulations may include reasonable provisions regarding nonconforming uses and their gradual elimination.

(2)(a) The city shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Department of Health Department of Health and Human Services Regulation and Licensure or the United States Department of Housing and Urban Development. The city may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family

dwelling on the same lot. The city may also require that manufactured homes meet the following standards:

- (i) The home shall have no less than nine hundred square feet of floor area;
  - (ii) The home shall have no less than an eighteen-foot exterior width;
  - (iii) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;
  - (iv) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
  - (v) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
  - (vi) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.
- (b) The city may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.
- (c) Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(3) For purposes of this section, manufactured home shall mean (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in section 71-1557 bearing the seal of the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 56. Section 19-902, Revised Statutes Supplement, 1994, is amended to read:

19-902. (1) For any or all of the purposes designated in section 19-901, the city council or village board may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of sections 19-901 to 19-914 and may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land within the districts. All such regulations shall be uniform for each class or kind of buildings throughout each district, but the regulations applicable to one district may differ from those applicable to other districts.

(2)(a) The city council or village board shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Department of Health Department of Health and Human Services Regulation and Licensure or the United States Department of Housing and Urban Development. The city council or village board may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. The city council or village board may also require that manufactured homes meet the following standards:

- (i) The home shall have no less than nine hundred square feet of floor area;
  - (ii) The home shall have no less than an eighteen-foot exterior width;
  - (iii) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;
  - (iv) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
  - (v) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
  - (vi) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.
- (b) The city council or village board may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.
- (c) Nothing in this subsection shall be deemed to supersede any

valid restrictive covenants of record.

(3) For purposes of this section, manufactured home shall mean (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in section 71-1557 bearing the seal of the Department of Health ~~Department of Health and Human Services Regulation and Licensure.~~

(4) Subdivision regulations and building, plumbing, electrical, housing, fire, or health codes or similar regulations and the adoption thereof shall not be subject to sections 19-901 to 19-915.

Sec. 57. Section 23-114, Revised Statutes Supplement, 1994, is amended to read:

23-114. (1) The county board shall have power: (a) To create a planning commission with the powers and duties set forth in sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to 23-174, 23-174.02, 23-373, and 23-376; (b) to make, adopt, amend, extend, and implement a county comprehensive development plan; and (c) to adopt a zoning resolution, which shall have the force and effect of law.

(2) The zoning resolution may regulate and restrict: (a) The location, height, bulk, number of stories, and size of buildings and other structures, including tents, cabins, house trailers, and automobile trailers; (b) the percentage of lot areas which may be occupied; (c) building setback lines; (d) sizes of yards, courts, and other open spaces; (e) the density of population; (f) the uses of buildings; and (g) the uses of land for agriculture, forestry, recreation, residence, industry, and trade, after considering factors relating to soil conservation, water supply conservation, surface water drainage and removal, or other uses in the unincorporated area of the county.

(3)(a) The county board shall not adopt or enforce any zoning resolution or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the ~~Department of Health Department of Health and Human Services Regulation and Licensure~~ or the United States Department of Housing and Urban Development. The county board may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. The county board may also require that manufactured homes meet the following standards:

(i) The home shall have no less than nine hundred square feet of floor area;

(ii) The home shall have no less than an eighteen-foot exterior width;

(iii) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;

(iv) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;

(v) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and

(vi) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.

(b) The county board may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.

(c) Nothing in this subsection shall be deemed to supersede any valid restrictive covenants of record.

(4) For purposes of this section, manufactured home shall mean (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit, as defined in section 71-1557 bearing the seal of the



Department of Health Department of Health and Human Services Regulation and Licensure.

(5) Special districts or zones may be established in those areas subject to seasonal or periodic flooding, and such regulations may be applied as will minimize danger to life and property.

(6) The powers conferred by this section shall not be exercised within the limits of any incorporated city or village nor within the area over which a city or village has been granted zoning jurisdiction and is exercising such jurisdiction. At such time as a city or village exercises control over an unincorporated area by the adoption or amendment of a zoning ordinance, the ordinance or amendment shall supersede any resolution or regulation of the county.

Sec. 58. Section 23-3595, Revised Statutes Supplement, 1994, is amended to read:

23-3595. All hospitals operated directly by an authority and not operated or leased as lessee by a nonprofit person, firm, partnership, limited liability company, association, or corporation shall be operated by the board of trustees of such authority according to the best interests of the public health, and the board of trustees shall make and enforce all rules, regulations, and bylaws necessary for the administration, government, protection, and maintenance of such hospitals and all property belonging thereto and may prescribe the terms upon which patients may be admitted thereto. Such hospitals shall not be required to contract with counties or with agencies thereof to provide care for indigent county patients at below the cost for care. In fixing the basic room rates for such hospitals, the board of trustees shall establish such basic room rates as will, together with other income and revenue available for such purpose and however derived, permit each such hospital to be operated upon a self-supporting basis. In establishing basic room rates for such hospital, the board of trustees shall give due consideration to at least the following factors: Costs of administration, operation, and maintenance of such hospitals; the cost of making necessary repairs and renewals thereto; debt service requirements; the creation of reserves for contingencies; and projected needs for expansion and for the making of major improvements. Minimum standards of operation for such hospitals, at least equal to those set by the Department of Health Department of Health and Human Services Regulation and Licensure, shall be established and enforced by the board of trustees.

In the case of hospitals financed with the proceeds of bonds issued by an authority, but not operated directly by an authority, the board of trustees shall require that the financing documents contain covenants of the operators of such hospitals to establish rates at least sufficient to pay costs of administration, operation, and maintenance of such hospitals, the cost of making necessary repairs and renewals thereto, and to provide for debt service requirements, the creation of reserves for contingencies, and projected needs for expansion and the making of major improvements.

Sec. 59. Section 28-326, Reissue Revised Statutes of Nebraska, is amended to read:

28-326. For purposes of sections 28-325 to 28-345, unless the context otherwise requires:

(1) Abortion shall mean the use or prescription of any instrument, medicine, drug, or other substance or device intentionally to terminate the pregnancy of a woman known to be pregnant with an intention other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead unborn child, and which causes the premature termination of the pregnancy;

(2) Hospital shall mean those institutions licensed by the Department of Health Department of Health and Human Services Regulation and Licensure pursuant to sections 71-107 to 71-209;

(3) Physician shall mean any person licensed to practice medicine in this state as provided in sections 71-102 to 71-110;

(4) Pregnant shall mean that condition of a woman who has unborn human life within her as the result of conception;

(5) Conception shall mean the fecundation of the ovum by the spermatozoa;

(6) Viability shall mean that stage of human development when the unborn child is potentially able to live more than merely momentarily outside the womb of the mother by natural or artificial means;

(7) Emergency situation shall mean that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial impairment of a major bodily function; and

(8) Probable gestational age of the unborn child shall mean what will with reasonable probability, in the judgment of the physician, be the gestational age of the unborn child at the time the abortion is planned to be performed.

Sec. 60. Section 28-327, Reissue Revised Statutes of Nebraska, is amended to read:

28-327. No abortion shall be performed except with the voluntary and informed consent of the woman upon whom the abortion is to be performed. Except in the case of an emergency situation, consent to an abortion is voluntary and informed only if:

(1) The woman is told the following by the physician who is to perform the abortion, by the referring physician, or by a licensed physician assistant or registered nurse who is an agent of either, at least twenty-four hours before the abortion:

(a) The particular medical risks associated with the particular abortion procedure to be employed including, when medically accurate, the risks of infection, hemorrhage, and danger to subsequent pregnancies and infertility;

(b) The probable gestational age of the unborn child at the time the abortion is to be performed; and

(c) The medical risks associated with carrying her child to term.

The person providing the information specified in this subdivision to the person upon whom the abortion is to be performed shall be deemed qualified to so advise and provide such information only if, at a minimum, he or she has had training in each of the following subjects: Sexual and reproductive health; abortion technology; contraceptive technology; short-term counseling skills; community resources and referral; and informed consent. The physician or the physician's agent may provide this information by telephone without conducting a physical examination or tests of the patient, in which case the information required to be supplied may be based on facts supplied by the patient and whatever other relevant information is reasonably available to the physician or the physician's agent;

(2) The woman is informed by telephone or in person, by the physician who is to perform the abortion, by the referring physician, or by an agent of either, at least twenty-four hours before the abortion:

(a) The name of the physician who will perform the abortion;

(b) That medical assistance benefits may be available for prenatal care, childbirth, and neonatal care;

(c) That the father is liable to assist in the support of her child, even in instances in which the father has offered to pay for the abortion; and

(d) That she has the right to review the printed materials described in section 28-327.01. The physician or his or her agent shall orally inform the woman that the materials have been provided by the Department of Health Department of Health and Human Services and that they describe the unborn child and list agencies which offer alternatives to abortion. If the woman chooses to review the materials, they shall either be given to her at least twenty-four hours before the abortion or mailed to her at least seventy-two hours before the abortion by certified mail, restricted delivery to addressee, which means the postal employee can only deliver the mail to the addressee. The physician and his or her agent may disassociate themselves from the materials and may comment or refrain from commenting on them as they choose;

(3) The woman certifies in writing, prior to the abortion, that the information described in subdivisions (1) and (2)(a), (b), and (c) of this section has been furnished her and that she has been informed of her right to review the information referred to in subdivision (2)(d) of this section; and

(4) Prior to the performance of the abortion, the physician who is to perform the abortion or his or her agent receives a copy of the written certification prescribed by subdivision (3) of this section.

Sec. 61. Section 28-327.01, Reissue Revised Statutes of Nebraska, is amended to read:

28-327.01. (1) The Department of Health Department of Health and Human Services shall cause to be published, within sixty days after September 9, 1993, the following easily comprehensible printed materials:

(a) Geographically indexed materials designed to inform the woman of public and private agencies and services available to assist a woman through pregnancy, upon childbirth, and while the child is dependent, including adoption agencies and agencies and services for prevention of unintended pregnancies, which materials shall include a comprehensive list of the agencies available, a description of the services they offer, and a description of the manner, including telephone numbers and addresses in which such agencies may be contacted or printed materials including a toll-free, twenty-four-hour-a-day telephone number which may be called to orally obtain

such a list and description of agencies in the locality of the caller and of the services they offer; and

(b) Materials designed to inform the woman of the probable anatomical and physiological characteristics of the unborn child at two-week gestational increments from the time when a woman can be known to be pregnant to full term, including pictures or drawings representing the development of unborn children at the two-week gestational increments, and any relevant information on the possibility of the unborn child's survival. Any such pictures or drawings shall contain the dimensions of the unborn child and shall be realistic and appropriate for the stage of pregnancy depicted. The materials shall be objective, nonjudgmental, and designed to convey only accurate scientific information about the unborn child at the various gestational ages. The materials shall also contain objective information describing the methods of abortion procedures commonly employed, the medical risks commonly associated with each such procedure, the possible detrimental psychological effects of abortion, the medical risks commonly associated with abortion, and the medical risks commonly associated with carrying a child to term.

(2) The materials shall be printed in a typeface large enough to be clearly legible.

(3) The materials required under this section shall be available from the department upon the request by any person, facility, or hospital for an amount equal to the cost incurred by the department to publish the materials.

Sec. 62. Section 28-327.03, Reissue Revised Statutes of Nebraska, is amended to read:

28-327.03. No civil liability for failure to comply with subdivision (2)(d) of section 28-327 or that portion of subdivision (3) of such section requiring a written certification that the woman has been informed of her right to review the information referred to in subdivision (2)(d) of such section may be imposed unless the Department of Health and Human Services has published and made available the printed materials at the time the physician or his or her agent is required to inform the woman of her right to review them.

Sec. 63. Section 28-343, Reissue Revised Statutes of Nebraska, is amended to read:

28-343. The Department of Health and Human Services Finance and Support shall prescribe an abortion reporting form which shall be used for the reporting of every abortion performed in this state. Such form shall include the following items:

- (1) The age of the pregnant woman;
- (2) The location of the facility where the abortion was performed;
- (3) The type of procedure performed;
- (4) Complications, if any;
- (5) The name of the attending physician;
- (6) The pregnant woman's obstetrical history regarding previous pregnancies, abortions, and live births;
- (7) The stated reason or reasons for which the abortion was requested;
- (8) The state of the pregnant woman's legal residence;
- (9) The length and weight of the aborted child, when measurable;
- (10) Whether an emergency situation caused the physician to waive any of the requirements of section 28-327; and
- (11) Such other information as may be prescribed in accordance with section 71-602.

The completed form shall be signed by the attending physician and sent to the Bureau of Vital Statistics within fifteen days after each reporting month. The completed form shall be an original, typed or written legibly in durable ink, and shall not be deemed complete unless the omission of any item of information required shall have been disclosed or satisfactorily accounted for. Carbon copies shall not be acceptable. The abortion reporting form shall not include the name of the person upon whom the abortion was performed. The abortion reporting form shall be confidential and shall not be revealed except upon the order of a court of competent jurisdiction in a civil or criminal proceeding.

Sec. 64. Section 28-345, Reissue Revised Statutes of Nebraska, is amended to read:

28-345. The Department of Health and Human Services Finance and Support shall prepare and keep on permanent file compilations of the information submitted on the abortion reporting forms pursuant to such rules and regulations as established by the Department of Health and Human Services Finance and Support, which

compilations shall be a matter of public record. Under no circumstances shall the compilations of information include the name of any attending physician or identify in any respect facilities where abortions are performed. The Department of Health Department of Health and Human Services Finance and Support, in order to maintain and keep such compilations current, shall file with such reports any new or amended information.

Sec. 65. Section 28-356, Reissue Revised Statutes of Nebraska, is amended to read:

28-356. Department shall mean the Department of Social Services Department of Health and Human Services.

Sec. 66. Section 28-372, Reissue Revised Statutes of Nebraska, is amended to read:

28-372. (1) When any physician, psychologist, physician assistant, nurse, nursing assistant, other medical, developmental disability, or mental health professional, law enforcement personnel, caregiver or employee of a caregiver, operator or employee of a sheltered workshop, owner, operator, or employee of any facility licensed by the Department of Health Department of Health and Human Services Regulation and Licensure, or human services professional or paraprofessional not including a member of the clergy has reasonable cause to believe that a vulnerable adult has been subjected to abuse or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse, he or she shall report the incident or cause a report to be made to the appropriate law enforcement agency or to the department. Any other person may report abuse if such person has reasonable cause to believe that a vulnerable adult has been subjected to abuse or observes such adult being subjected to conditions or circumstances which reasonably would result in abuse.

(2) Such report may be made by telephone, with the caller giving his or her name and address, and, if requested by the department, shall be followed by a written report within forty-eight hours. To the extent available the report shall contain: (a) The name, address, and age of the vulnerable adult; (b) the address of the caregiver or caregivers of the vulnerable adult; (c) the nature and extent of the alleged abuse or the conditions and circumstances which would reasonably be expected to result in such abuse; (d) any evidence of previous abuse including the nature and extent of the abuse; and (e) any other information which in the opinion of the person making the report may be helpful in establishing the cause of the alleged abuse and the identity of the perpetrator or perpetrators.

(3) Any law enforcement agency receiving a report of abuse shall notify the department no later than the next working day by telephone or mail.

(4) A report of abuse made to the department which was not previously made to or by a law enforcement agency shall be communicated to the appropriate law enforcement agency by the department no later than the next working day by telephone or mail.

(5) The department shall establish a statewide toll-free number to be used by any person any hour of the day or night and any day of the week to make reports of abuse.

Sec. 67. Section 28-380, Reissue Revised Statutes of Nebraska, is amended to read:

28-380. At any time subsequent to the completion of the department's investigation, if a vulnerable adult, the guardian of a vulnerable adult, or a person who allegedly abused a vulnerable adult and who is mentioned in a report believes the information in the report is inaccurate or being maintained in a manner inconsistent with the Adult Protective Services Act, such person may request the department to amend or expunge identifying information from the report or remove the record of such report from the registry. If the department refuses to do so or does not act within thirty days, the vulnerable adult or person who allegedly abused a vulnerable adult shall have the right to a hearing to determine whether the record of the report should be amended, expunged, or removed on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with such act. Such hearing shall be held within a reasonable time after a request is made and at a reasonable place and hour. At the hearing the burden of proving the accuracy and consistency of the record shall be on the department. The hearing shall be conducted by the Director of Social Services Director of Health and Human Services or his or her designated representative, who is hereby authorized and empowered to order the amendment, expunction, or removal of the record to make such record accurate or consistent with the requirements of the Adult Protective Services Act. The decision shall be made in writing within thirty days of the close of the hearing and shall state the reasons upon which it is based. Decisions of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 68. Section 28-401, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Administer shall mean the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (a) A practitioner or, in his or her presence, by his or her authorized agent; or (b) the patient or research subject at the direction and in the presence of the practitioner;

(2) Agent shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. Agent shall not include a common or contract carrier, public warehouse keeper, or employee of the carrier or warehouse keeper;

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

(4) Controlled substance shall mean a drug, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance shall mean a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

(6) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

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

(8) Bureau of Examining Boards shall mean personnel of the department responsible for the enforcement of the Uniform Controlled Substances Act in the areas assigned to it by the act;

(9) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject pursuant to the lawful order or prescription of a physician, dentist, veterinarian, or other medical practitioner licensed under the laws of this state to prescribe drugs, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery. Dispenser shall mean the apothecary, pharmacist, or other practitioner, duly licensed, who dispenses a controlled substance to an ultimate user or a research subject;

(10) Distribute shall mean to deliver other than by administering or dispensing a controlled substance. Distributor shall mean a person who so distributes a controlled substance;

(11) Prescribe shall mean the act of a physician, surgeon, dentist, veterinarian, or other medical practitioner licensed under the laws of this state in issuing an order, prescription, or direction to a pharmacist or pharmacy to dispense a drug as required by the laws of this state;

(12) Drug shall mean (a) articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them, (b) substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human beings or animals, and (c) substances intended for use as a component of any article specified in subdivision (a) or (b) of this subdivision, but shall not include devices or their components, parts, or accessories;

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

(14) Marijuana shall mean all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, but shall not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, or the sterilized seed of such plant which is incapable of germination. When the weight of marijuana is referred to in the Uniform



Controlled Substances Act, it shall mean its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time;

(15) Manufacture shall mean the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and shall include any packaging or repackaging of the substance or labeling or relabeling of its container, except that manufacture shall not include the preparation or compounding of a controlled substance by an individual for his or her own use or the preparation, compounding, packaging, or labeling of a controlled substance: (a) By a practitioner as an incident to his or her prescribing, administering, or dispensing of a controlled substance in the course of his or her professional practice; or (b) by a practitioner, or by his or her authorized agent under his or her supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale;

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

(17) Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. Opiate shall not include the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts. Opiate shall include its racemic and levorotatory forms;

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

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

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

(21) Practitioner shall mean a physician, dentist, veterinarian, pharmacist, scientific investigator, pharmacy, or hospital, licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

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

(23) Immediate precursor shall mean a substance which is the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit such manufacture;

(24) State shall mean the State of Nebraska;

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

(26) Physician shall mean a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state;

(27) Dentist shall mean a person authorized by law to practice dentistry in this state;

(28) Veterinarian shall mean a person authorized by law to practice veterinary medicine in this state;

(29) Hospital shall mean an institution for the care and treatment of sick and injured human beings and approved by the department;

(30) Podiatrist shall mean a person authorized by law to practice podiatry and who has graduated from an accredited school of podiatry in or

since 1935;

(31) Apothecary shall mean a licensed pharmacist as defined by the laws of this state and, when the context so requires, the owner of the store or other place of business where drugs are compounded or dispensed by a licensed pharmacist, but nothing in this subdivision shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted to him or her by the pharmacy laws of this state;

(32) Nothing in the Uniform Controlled Substances Act shall be construed as authority for a practitioner to perform an act for which he or she is not authorized by the laws of this state;

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

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

(35) Exceptionally hazardous drug shall mean (a) a narcotic drug, (b) thiophene analog of phencyclidine, (c) phencyclidine, (d) amobarbital, (e) secobarbital, or (f) pentobarbital;

(36) Imitation controlled substance shall mean a substance which is not a controlled substance but which, by way of express or implied representations and consideration of other relevant factors including those specified in section 28-445, would lead a reasonable person to believe the substance is a controlled substance. A placebo or registered investigational drug manufactured, distributed, possessed, or delivered in the ordinary course of practice or research by a health care professional shall not be deemed to be an imitation controlled substance;

(37) Controlled substance analogue shall mean a substance (a) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (b) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of this article. Controlled substance analogue shall not include (i) a controlled substance, (ii) any substance considered generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent conduct with respect to such substance is pursuant to such exemption; and

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

Sec. 69. Section 28-411, Reissue Revised Statutes of Nebraska, is amended to read:

28-411. (1) Every physician, dentist, podiatrist, veterinarian, or other person who is authorized to administer or professionally use controlled substances shall keep a record of such controlled substances received by him or her and a record of all such controlled substances administered or professionally used by him or her otherwise than by prescription.

(2) Manufacturers and wholesalers shall keep records of all controlled substances compounded, mixed, cultivated, grown, or by any other process produced or prepared and of all controlled substances received and disposed of by them, in accordance with subsection (4) of this section.

(3) Apothecaries shall keep records of all controlled substances

received and disposed of by them, in accordance with subsection (4) of this section.

(4) The form of records shall be prescribed by the Department of Health of the State of Nebraska Department of Health and Human Services Regulation and Licensure. The record of controlled substances received shall in every case show (a) the date of receipt, (b) the name and address of the person from whom received, (c) the kind and quantity of controlled substances received, (d) the kind and quantity of controlled substances produced or removed from process of manufacture, and (e) the date of such production or removal from process of manufacture. The record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced. The record of all controlled substances sold, administered, dispensed, or otherwise disposed of shall show the date of selling, administering, or dispensing, the name and address of the person to whom or for whose use or the owner and species of animal for which the controlled substances were sold, administered, or dispensed, and the kind and quantity of controlled substances. Every such record shall be kept for a period of seven years from the date of the transaction recorded and shall contain a detailed list of controlled substances lost, destroyed, or stolen, if any, the kind and quantity of such controlled substances, and the date of the discovery of such loss, destruction, or theft.

Sec. 70. Section 28-412, Reissue Revised Statutes of Nebraska, is amended to read:

28-412. It shall be unlawful for any duly licensed practicing physician to prescribe, or for any duly licensed practicing physician, dentist, or veterinarian, to administer, in any manner or form, any cocaine, alpha or beta eucaine, morphine or opium, or any salt, compound, or derivative of any of the foregoing substances, or any preparation, product, or compound, containing any of the foregoing substances or any of their salts, compounds, or derivatives, for, or to, any person addicted to the habitual use of cocaine, alpha or beta eucaine, morphine or opium, or any salt, compound, or derivative of any of the foregoing substances, or any preparation, product, or compound containing any of the foregoing substances or any of their salts, compounds, or derivatives, except that a reputable and duly licensed practicing physician may personally administer to a patient who is a habitual user of such drugs, or any of them, necessary doses thereof, when it has been in good faith determined by two reputable and duly licensed practicing physicians, in consultation, to be absolutely necessary in the medical treatment of such patient, in which case, the physician administering such drugs, or any of them, shall make and keep a record in writing of the name and address of the person to whom such drugs, or any of them, were administered, the date administered, the form and quantity of drug administered, the name and address of the consulting physician, and the date and place of consultation. Such record shall be retained and preserved within the State of Nebraska, and the county where administered, for a period of at least two years, and shall always be open for inspection by the Department of Health Department of Health and Human Services Regulation and Licensure, state, county and city health officers, county attorneys, grand juries, and all officers of the law, and by agents appointed by them, or any of them, for the purpose of making an inspection. The record shall be made at the time of each administration of such drugs, or any of them, and a copy of the record shall, within five days after each administration of such drugs, or any of them, as in this section provided, be filed with the county attorney of the county in which the administering took place, by the physician administering the drugs, or any of them, and shall have affixed thereto the signature and address of the administering physician.

Any person violating any of the provisions or requirements of this section or any part thereof shall be guilty of a Class IV felony.

Sec. 71. Section 28-710, Reissue Revised Statutes of Nebraska, is amended to read:

28-710. For purposes of sections 28-710 to 28-727, unless the context otherwise requires:

(1) Department shall mean the Department of Social Services Department of Health and Human Services;

(2) Law enforcement agency shall mean the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol; and

(3) Abuse or neglect shall mean knowingly, intentionally, or negligently causing or permitting a minor child to be:

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

(b) Cruelly confined or cruelly punished;

- (c) Deprived of necessary food, clothing, shelter, or care;
- (d) Left unattended in a motor vehicle if such minor child is six years of age or younger;
- (e) Sexually abused; or
- (f) Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions.

Sec. 72. Section 28-713, Reissue Revised Statutes of Nebraska, is amended to read:

28-713. (1) Upon the receipt of a call reporting abuse and neglect as required by section 28-711, it shall be the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings if appropriate. The law enforcement agency may request assistance from the department Department of Health and Human Services during the investigation and shall, by the next working day, notify either the hotline or the appropriate child protective services unit of the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department.

(2) The department shall investigate for the purpose of assessing each report to determine the risk of harm to the child involved. The department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family.

(3) The department may make a request for further assistance from the appropriate law enforcement agency or take such legal action as may be appropriate under the circumstances.

(4) The department shall, by the next working day after receiving a report under subsection (1) of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the central registry all reports opened for investigation of abuse or neglect and any action taken.

(5) The department shall, upon request, make available to the appropriate investigating law enforcement agency and the county attorney a copy of all reports relative to a case of suspected abuse or neglect.

Sec. 73. Section 28-728, Reissue Revised Statutes of Nebraska, is amended to read:

28-728. (1) The Legislature finds that child abuse and neglect are community problems requiring a cooperative complementary response by law enforcement, the Department of Social Services Department of Health and Human Services, and other agencies or entities designed to protect children. It is the intent of the Legislature to create a child abuse and neglect investigation team in each county or contiguous group of counties and to create a child abuse and neglect treatment team in each county or contiguous group of counties.

(2) The child abuse and neglect investigation team shall develop protocols which, at a minimum, shall include procedures for:

(a) Conducting joint investigations of child abuse and other child abuse and neglect matters which the team deems necessary;

(b) Ensuring that a law enforcement agency will participate in the investigation;

(c) Conducting joint investigations of other child abuse and neglect matters which the team deems necessary;

(d) Reducing the risk of harm to child abuse and neglect victims;

(e) Ensuring that the child is in safe surroundings, including removing the perpetrator when necessary;

(f) Sharing of case information; and

(g) How and when the team will meet.

(3) The child abuse and neglect treatment team shall develop protocols which, at a minimum, shall include procedures for:

(a) Case coordination and assistance, including the location of services available within the area;

(b) Case staffings and the coordination, development, implementation, and monitoring of treatment plans;

(c) Reducing the risk of harm to child abuse and neglect victims;

(d) Assisting those child abuse and neglect victims who are abused and neglected by perpetrators who do not reside in their homes; and

(e) How and when the team will meet.

Sec. 74. Section 28-729, Reissue Revised Statutes of Nebraska, is amended to read:

28-729. (1) A child abuse and neglect investigation team shall

include a representative from the county attorney's office, a representative from the Department of Social Services Department of Health and Human Services, a representative from each law enforcement agency which has jurisdiction within the county or contiguous group of counties, and representatives from such other agencies as determined by the team.

(2) A child abuse and neglect treatment team shall include a representative from the Department of Social Services Department of Health and Human Services, a juvenile probation officer, a representative from the mental health profession or medical profession actively practicing within the county or contiguous group of counties, a representative from each school district which provides services within the county or contiguous group of counties, and representatives from such other agencies as determined by the team. For purposes of this subsection, more than one school district may be represented by the same individual.

(3) The teams established pursuant to this section and section 28-728 shall be encouraged to expand their membership to include the various relevant disciplines which exist within the county or contiguous group of counties. The additional members shall have the requisite experience necessary as determined by the core members of the teams. Consistent with requirements set out by the teams, all members of both teams shall attend child abuse and neglect training on an annual basis. Such training shall be no less than eight hours annually and consist of the following components:

- (a) Child abuse and neglect investigation procedures as provided by law enforcement standards;
  - (b) Legal requirements and procedures for successful prosecution of child abuse and neglect cases;
  - (c) Roles and responsibilities of child protective services, law enforcement agencies, county attorneys, and judges;
  - (d) Characteristics of child development and family dynamics;
  - (e) Recognition of various types of abuse and neglect;
  - (f) Duty of public and private individuals and agencies, including schools, governmental agencies, physicians, and child advocates, to report suspected or known child abuse;
  - (g) Multidisciplinary approaches to providing services to children;
- and

(h) Weaknesses in the current child protection system.

(4) The county attorney shall establish each of the teams and report the name and address of each team member to the Nebraska Commission on Law Enforcement and Criminal Justice. If more than one county is part of a team, the participating county attorneys shall jointly and cooperatively establish the respective teams and report their results to the commission.

(5) Each team shall meet at a location agreed to by the team. The number of meetings of the team shall be secondary to the caseload of the team, but each team shall meet at least quarterly. Each team shall annually report to the commission the number of times the team met within a calendar year and any changes in team membership. Each team shall select a chairperson annually in the first quarter of each calendar year. Each team may substitute a telephone conference call among team members in lieu of meeting in person. If a team fails to convene, the commission shall notify the Child Protection Division of the office of the Attorney General and the division shall appoint the team members or convene the team pursuant to sections 28-728 to 28-730. Nothing in this section shall relieve the county attorney from ensuring that the teams meet as required by this section.

Sec. 75. Section 28-730, Reissue Revised Statutes of Nebraska, is amended to read:

28-730. (1) Notwithstanding any other provision of law regarding the confidentiality of records and when not prohibited by the federal Privacy Act of 1974, as amended, juvenile court records and any other pertinent information that may be in the possession of school districts, law enforcement agencies, county attorneys, the Department of Social Services Department of Health and Human Services, and other team members concerning a child whose case is being investigated or discussed by a child abuse and neglect investigation team or a child abuse and neglect treatment team shall be shared with the respective team members as part of the discussion and coordination of efforts for investigative or treatment purposes. Upon request by a team, any individual or agency with information or records concerning a particular child shall share all relevant information or records with the team as determined by the team pursuant to the appropriate team protocol. Only a team which has accepted the child's case for investigation or treatment shall be entitled to access to such information.

(2) All information acquired by a team member or other individuals pursuant to protocols developed by the team shall be confidential and shall

not be disclosed except to the extent necessary to perform case consultations, to carry out a treatment plan or recommendations, or for use in a legal proceeding instituted by a county attorney or the Child Protection Division of the office of the Attorney General. Information, documents, or records otherwise available from the original sources shall not be immune from discovery or use in any civil or criminal action merely because the information, documents, or records were presented during a case consultation if the testimony sought is otherwise permissible and discoverable. Any person who presented information before the team or who is a team member shall not be prevented from testifying as to matters within the person's knowledge.

(3) Each team may review any case arising under the Nebraska Criminal Code when a child is a victim or any case arising under the Nebraska Juvenile Code. A member of a team who participates in good faith in team discussion or any person who in good faith cooperates with a team by providing information or records about a child whose case has been accepted for investigation or treatment by a team shall be immune from any other section granting or allowing the grant of immunity from liability shall not be extended to any person alleged to have committed an act of child abuse or neglect.

(4) A member of a team who publicly discloses information regarding a case consultation in a manner not consistent with sections 28-728 to 28-730 shall be guilty of a Class III misdemeanor.

Sec. 76. Section 28-1432, Reissue Revised Statutes of Nebraska, is amended to read:

28-1432. It shall be the duty of the Department of Health Department of Health and Human Services Regulation and Licensure to investigate any complaints against manufacturers and retail outlets for the purpose of determining compliance with sections 28-1430 to 28-1433. Prosecutions of alleged violations shall be the duty of the Attorney General's office.

Sec. 77. Section 29-2290, Reissue Revised Statutes of Nebraska, is amended to read:

29-2290. (1) Notwithstanding any other provision of law, when a person has been convicted of sexual assault pursuant to sections 28-317 to 28-320, sexual assault of a child pursuant to section 28-320.01, or any other offense under Nebraska law when sexual contact or sexual penetration is an element of the offense, the presiding judge shall, at the request of the victim as part of the sentence of the convicted person when the circumstances of the case demonstrate a possibility of transmission of the human immunodeficiency virus, order the convicted person to submit to a human immunodeficiency virus antibody or antigen test. Such test shall be conducted under the jurisdiction of the Department of Correctional Services. The Department of Correctional Services shall make the results of the test available only to the victim, to the parents or guardian of the victim if the victim is a minor or is mentally incompetent, to the convicted person, to the parents or guardian of the convicted person if the convicted person is a minor or mentally incompetent, to the court issuing the order for testing, and to the Department of Health Department of Health and Human Services.

(2) If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Department of Correctional Services shall provide counseling to the convicted person regarding human immunodeficiency virus disease and referral to appropriate health care and support services.

(3) The Department of Correctional Services shall provide to the Department of Health Department of Health and Human Services the result of any human immunodeficiency virus test conducted pursuant to this section and information regarding the request of the victim. The Department of Health Department of Health and Human Services shall notify the victim or the parents or guardian of the victim if the victim is a minor or mentally incompetent and shall make available to the victim counseling and testing regarding human immunodeficiency virus disease and referral to appropriate health care and support services.

(4) The cost of testing under this section shall be paid by the convicted person tested unless the court has determined the convicted person to be indigent.

(5) Filing of a notice of appeal shall not automatically stay an order that the convicted person submit to a human immunodeficiency virus test.

(6) For purposes of this section:

(a) Convicted shall include adjudicated under juvenile proceedings;

(b) Convicted person shall include a child adjudicated of an offense described in subsection (1) of this section; and



(c) Sentence shall include a disposition under juvenile proceedings.

(7) The Department of Correctional Services, in consultation with the Department of Health Department of Health and Human Services, shall adopt and promulgate rules and regulations to carry out this section.

Sec. 78. Section 29-2923, Reissue Revised Statutes of Nebraska, is amended to read:

29-2923. For purposes of the Convicted Sex Offender Act:

(1) Aftercare treatment program shall mean any public or private facility or service which offers treatment on an outpatient basis or in a minimally restricted setting, which treatment is appropriate for a convicted sex offender after he or she has successfully completed an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services; and

(2) Convicted sex offender shall mean a person who is convicted of sexual assault in the first degree as provided in section 28-319, sexual assault in the second degree as provided in section 28-320, sexual assault of a child as provided in section 28-320.01, incest as provided in section 28-703, or attempt to commit sexual assault in the first degree pursuant to section 28-201 and sentenced to a term of imprisonment in a Department of Correctional Services adult correctional facility.

Sec. 79. Section 29-2925, Reissue Revised Statutes of Nebraska, is amended to read:

29-2925. Within sixty days of the date of commitment to the Department of Correctional Services of a convicted sex offender to serve his or her sentence, the Department of Public Institutions Department of Health and Human Services shall conduct an evaluation of the offender for purposes of determining whether treatment in a treatment program operated by the Department of Public Institutions Department of Health and Human Services is appropriate for the offender. The evaluation process shall be based upon criteria and procedures established by the Department of Public Institutions Department of Health and Human Services. The Department of Correctional Services shall provide the Department of Public Institutions Department of Health and Human Services access to all correctional and presentence records determined by the Department of Public Institutions Department of Health and Human Services to be relevant to the evaluation process.

Sec. 80. Section 29-2926, Reissue Revised Statutes of Nebraska, is amended to read:

29-2926. (1) If the Department of Public Institutions Department of Health and Human Services determines that treatment in an inpatient treatment program operated by the Department of Public Institutions department is not appropriate for a convicted sex offender, the offender may request the sentencing judge to review the determination in accordance with subsection (2) of this section.

(2) Within thirty days of the determination of the Department of Public Institutions Department of Health and Human Services that the treatment in an inpatient treatment program operated by the Department of Public Institutions department is not appropriate for a convicted sex offender, the offender may apply to the sentencing judge for a review of the denial of treatment. The review shall be conducted under the following rules of procedure:

(a) The court may allow each party to call witnesses on its behalf at such party's expense. Witnesses may be subpoenaed at the expense of the party calling the witness;

(b) Each party shall be allowed to be represented by counsel at such party's expense;

(c) Each party may be allowed to cross-examine adverse witnesses;

(d) The Nebraska Evidence Rules shall not apply unless expressly provided for by law, and the court may consider all evidence which in its discretion is relevant to whether the determination of the department is appropriate;

(e) The court may affirm the determination of the department, remand the matter for further proceedings, or reverse or modify the determination if such determination is unsupported by competent, material, and substantial evidence in view of the entire record as made on review or if the determination is arbitrary and capricious; and

(f) The review pursuant to this section shall not be subject to appeal.

Sec. 81. Section 29-2927, Reissue Revised Statutes of Nebraska, is amended to read:

29-2927. If the Department of Public Institutions Department of Health and Human Services finds that the convicted sex offender is a potential treatment candidate, the department may notify the sentencing court of its

findings, provide the court a summary of the evaluation results, and request the court to decide whether the offender is eligible for future determination of sentence upon successful completion of an inpatient treatment program operated by the department. In making such decision, the court may consider (1) the evaluation results, (2) the nature of the crime, and (3) any other information the court considers relevant. The department shall consider the court's decision in determining whether the offender is appropriate for treatment.

Sec. 82. Section 29-2928, Reissue Revised Statutes of Nebraska, is amended to read:

29-2928. (1) If the Department of Public Institutions Department of Health and Human Services determines that treatment in an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services is appropriate for a convicted sex offender, that the offender will enter the treatment program voluntarily, and that space is available in the program, the Director of Correctional Services shall transfer the offender to the treatment program designated by the Director of Public Institutions Director of Health and Human Services for treatment. The Department of Correctional Services shall be responsible for physical transfer of the offender to the treatment facility.

(2) If the Department of Public Institutions Department of Health and Human Services determines that treatment in an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services is not appropriate for a convicted sex offender, the offender shall serve the sentence in a facility operated by the Department of Correctional Services and may participate in treatment offered by the Department of Correctional Services if the Department of Correctional Services determines that such treatment is appropriate for the offender. The Department of Correctional Services may make a recommendation concerning treatment as provided in subsection (4) of this section.

(3) If the Department of Public Institutions Department of Health and Human Services determines that treatment in an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services is not initially appropriate for a convicted sex offender but may be appropriate at a later time, a treatment decision may be deferred until a designated time, no later than two and one-half years prior to the offender's earliest parole eligibility date, when the offender will be reevaluated.

(4) If the Department of Correctional Services determines that an offender participating in treatment offered by the Department of Correctional Services will benefit from a treatment program operated by the Department of Public Institutions Department of Health and Human Services, the Department of Correctional Services shall notify the Department of Public Institutions Department of Health and Human Services and recommend admission of the offender to the treatment program. The evaluation process to determine whether such offender is to be admitted into a treatment program operated by the Department of Public Institutions Department of Health and Human Services pursuant to this subsection shall be based upon criteria and procedures established by the Department of Public Institutions Department of Health and Human Services and shall not be subject to appeal or review.

Sec. 83. Section 29-2929, Reissue Revised Statutes of Nebraska, is amended to read:

29-2929. (1) The inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services shall conduct annual reviews of each convicted sex offender in the program and submit annual progress reports to the sentencing court and the Department of Correctional Services.

(2) If the offender is uncooperative while in the inpatient treatment program or is found not to be amenable to treatment, the Director of Public Institutions Director of Health and Human Services shall cause the offender to be returned to the Department of Correctional Services in accordance with procedures established by the Department of Public Institutions Department of Health and Human Services. The Department of Correctional Services shall be responsible for physical transfer of the offender from the inpatient treatment facility to the Department of Correctional Services. The Department of Public Institutions Department of Health and Human Services shall, at the time of the transfer, provide the Department of Correctional Services a report summarizing the offender's response to and progress while in treatment and the reasons for the transfer and shall provide access to the treatment records as requested by the Department of Correctional Services.

(3) All days of confinement in a treatment program operated by the

Department of Public Institutions Department of Health and Human Services shall be credited to the offender's term of imprisonment.

Sec. 84. Section 29-2930, Reissue Revised Statutes of Nebraska, is amended to read:

29-2930. If the Department of Public Institutions Department of Health and Human Services determines that the convicted sex offender has received the maximum benefit of the inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services and is ready for treatment in an aftercare treatment program, the person in charge of the inpatient treatment program shall submit a written report to the sentencing court and the Department of Correctional Services documenting such findings and recommendations. Within thirty days of receipt of the report, the court shall conduct a hearing on the offender's status.

Sec. 85. Section 29-2931, Reissue Revised Statutes of Nebraska, is amended to read:

29-2931. (1) If the court finds that the convicted sex offender has successfully completed an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services and would benefit from treatment in an aftercare treatment program under conditions set by the court consistent with public safety, the court may issue an order directing the Department of Correctional Services to release the offender and, notwithstanding the time limitations found in subsection (1) of section 29-2263, may resentence the offender to probation for a period of time not greater than the remainder of the original sentence. Successful participation in an aftercare treatment program designated by the court shall be a condition of probation.

(2) If the court in its discretion finds that the offender should not be released to an aftercare treatment program, the court may issue an order (a) denying redetermination of the sentence or (b) modifying the original sentence to allow eligibility for parole at an earlier date than allowed by the original sentence. The offender shall be returned to serve the remainder of the sentence in a facility operated by the Department of Correctional Services and may participate in treatment offered by the Department of Correctional Services if the Department of Correctional Services determines that such treatment is appropriate for the offender.

(3) The court may exercise other sentence redetermination options in accordance with the treatment needs of the offender, the safety of society, and state law, except that the court shall not return the offender to an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services.

Sec. 86. Section 29-2932, Reissue Revised Statutes of Nebraska, is amended to read:

29-2932. If the convicted sex offender has been treated in an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services and is resented to probation, the Department of Correctional Services shall release the offender to the probation officer responsible for the offender. The Department of Public Institutions Department of Health and Human Services shall develop an individual discharge plan and provide the designated aftercare treatment program a copy of the discharge plan and relevant treatment information.

Sec. 87. Section 29-2934, Reissue Revised Statutes of Nebraska, is amended to read:

29-2934. (1) Each person committed as a mentally disordered sex offender pursuant to sections 29-2911 to 29-2921 as such sections existed prior to July 15, 1992, who is being treated in a regional center or other secure public institution operated by the Department of Public Institutions Department of Health and Human Services and has at least one year remaining on his or her sentence as of such date shall, within one hundred eighty days after such date, be returned to the district court which committed him or her for review and disposition consistent with the terms of this section.

(2) Each person committed to a regional center or other secure public institution operated by the Department of Public Institutions Department of Health and Human Services as a mentally disordered sex offender by a court pursuant to sections 29-2911 to 29-2921 as such sections existed prior to July 15, 1992, who is in a facility operated by the Department of Correctional Services awaiting treatment as of such date shall be placed in a treatment facility operated by the Department of Public Institutions Department of Health and Human Services for evaluation and treatment as soon as practical after space and staff become available. Within thirty days of such placement, the Department of Public Institutions Department of Health and Human Services shall determine, based on criteria and procedures established by the Department of Public Institutions Department of Health and Human

Services, whether the offender will remain in the treatment program or be returned to the Department of Correctional Services to await court review or the end of his or her sentence. Within thirty days after the evaluation-and-treatment period, if the offender has at least one hundred eighty days remaining on his or her sentence, he or she shall be returned to the committing district court for review and disposition consistent with the terms of this section.

(3) The Department of Public Institutions Department of Health and Human Services shall prepare and present a report and recommendations for each offender to be reviewed by the district court under subsection (1) or (2) of this section.

(4) Each person identified in subsections (1) and (2) of this section who was committed as a mentally disordered sex offender by a court after having entered a plea of guilty or nolo contendere shall, upon return to the district court, elect whether to be resentenced under the Convicted Sex Offender Act or continue his or her commitment pursuant to sections 29-2911 to 29-2921 as such sections existed prior to July 15, 1992.

(5) For each person identified in subsections (1) and (2) of this section who was committed as a mentally disordered sex offender by a court after having entered a plea of not guilty and for each person identified in subsection (4) of this section who elected to be resentenced under the act, subsections (6), (7), and (8) of this section shall apply.

(6) If the court finds that the offender is treatable in an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services, the offender shall be returned to or placed in such a treatment program and sections 29-2929 to 29-2933 shall apply.

(7) If the court finds that the offender is not amenable to treatment, is uncooperative in treatment, or has reached the maximum benefit of treatment in an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services but cannot be placed in an aftercare treatment program under conditions set by the court consistent with public safety, the offender shall be placed in a facility operated by the Department of Correctional Services to serve the remainder of his or her original sentence.

(8) If the court finds that the offender has successfully completed an inpatient treatment program operated by the Department of Public Institutions Department of Health and Human Services and can be treated in an aftercare treatment program under conditions set by the court consistent with public safety, the court shall proceed in accordance with section 29-2931 and sections 29-2932 and 29-2933 shall apply.

Sec. 88. Section 29-2935, Reissue Revised Statutes of Nebraska, is amended to read:

29-2935. For purposes of evaluating the treatment process, the Office of Probation Administration, the Department of Correctional Services, the Board of Parole, and the designated aftercare treatment programs shall allow appropriate access to data and information as requested by the Department of Public Institutions Department of Health and Human Services.

Sec. 89. Section 29-2936, Reissue Revised Statutes of Nebraska, is amended to read:

29-2936. The Department of Public Institutions Department of Health and Human Services shall adopt and promulgate rules and regulations as necessary to carry out the Convicted Sex Offender Act.

Sec. 90. Section 30-2487, Reissue Revised Statutes of Nebraska, is amended to read:

30-2487. (a) If the applicable assets of the estate are insufficient to pay all claims in full, the personal representative shall make payment in the following order:

- (1) Costs and expenses of administration;
- (2) Reasonable funeral expenses;
- (3) Debts and taxes with preference under federal law;
- (4) Reasonable and necessary medical and hospital expenses of the

last illness of the decedent, including compensation of persons attending the decedent and claims filed by the Department of Social Services Department of Health and Human Services Finance and Support pursuant to section 68-1036.02;

- (5) Debts and taxes with preference under other laws of this state;
- (6) All other claims.

(b) No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over claims not due.

Sec. 91. Section 31-708, Reissue Revised Statutes of Nebraska, is amended to read:

31-708. The board of trustees of any district organized under sections 31-701 to 31-726 shall have power to provide for establishing, maintaining, and constructing water mains, sewers, and disposal plants, and disposing of drainage, waste, and sewage of such district in a satisfactory manner. Any system established shall be approved by the Department of Health Department of Health and Human Services Regulation and Licensure. The district may construct its sewage disposal plant and other sewerage improvements, in whole or in part, inside or outside the boundaries of the district and may contract with corporations or municipalities for disposal of sewage and use of existing sewerage improvements.

Prior to the installation of any of the improvements provided for in this section, the plans for such improvements shall be approved by the public works department of any municipality when such improvements or any part thereof are within the area of the zoning jurisdiction of such municipality. Such approval shall relate to conformity with construction specifications and standards theretofore established by such municipality, except PROVIDED that where no such standards have been established such approval shall not be required. In cases where such improvements are within the area of the zoning jurisdiction of more than one municipality, such approval shall be required only from the most populous municipality.

Sec. 92. Section 31-740, Revised Statutes Supplement, 1994, is amended to read:

31-740. The board of trustees or the administrator of any district organized under sections 31-727 to 31-762 shall have power to provide for establishing, maintaining, and constructing gas and electric service lines and conduits, a civil defense warning system, water mains, sewers, and disposal plants and disposing of drainage, waste, and sewage of such district in a satisfactory manner; for establishing, maintaining, and constructing sidewalks, public roads, streets, and highways, including grading, changing grade, paving, repaving, graveling, regrading, widening, or narrowing roads, resurfacing or relaying existing pavement, or otherwise improving any road, street, or highway within the district, including protecting existing sidewalks, streets, highways, and roads from floods or erosion which has moved within fifteen feet from the edge of such sidewalks, streets, highways, or roads, regardless of whether such flooding or erosion is of natural or artificial origin; for establishing, maintaining, and constructing public waterways, docks, or wharfs, and related appurtenances; and for constructing and contracting for the construction of dikes and levees for flood protection for the district. The board of trustees or the administrator of any district may contract for electricity for street lighting for the public streets and highways within the district and shall have power to provide for building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities, and, when permitted by section 31-727, for contracting with other sanitary and improvement districts for the building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, and for contracting for any public purpose specifically authorized in this section. Power to construct clubhouses and similar facilities for the giving of private parties within the zoning jurisdiction of any city or village is not included in the powers granted in this section. Any sewer system established shall be approved by the Department of Health Department of Health and Human Services Regulation and Licensure.

Prior to the installation of any of the improvements or services provided for in this section, the plans or contracts for such improvements or services, other than for public parks, playgrounds, and recreational facilities, whether a district acts separately or jointly with other districts as permitted by section 31-727, shall be approved by the public works department of any municipality when such improvements or any part thereof or services are within the area of the zoning jurisdiction of such municipality. If such improvements or services are without the area of the zoning jurisdiction of any municipality, plans for such improvements shall be approved by the county board of the county wherein such improvements are located and plans and exact costs for public parks, playgrounds, and recreational facilities shall be approved by resolution of the governing body of such municipality or county after a public hearing held not less than five days after notice of the hearing has been published in a newspaper of general circulation in such municipality or county. Purchases of public parks, playgrounds, and recreational facilities so approved may be completed and shall be valid notwithstanding any interest of any trustee of the district in the transaction. Such approval shall relate to conformity with the master plan and the construction specifications and standards theretofore established

by such municipality or county. When no master plan and construction specifications and standards have been established, such approval shall not be required. In cases when such improvements are within the area of the zoning jurisdiction of more than one municipality, then such approval shall be required only from the most populous municipality, except that when such improvements are furnished to the district by contract with a particular municipality, the necessary approval may in all cases be given by such municipality. The municipality or county shall be required to approve plans for such improvements and shall enforce compliance with such plans by action in equity.

The district may construct its sewage disposal plant and other sewerage or water improvements, or both, in whole or in part, inside or outside the boundaries of the district and may contract with corporations or municipalities for disposal of sewage and use of existing sewerage improvements and for a supply of water for fire protection and for resale to residents of the district. It may also contract with any corporation, public power district, electric membership or cooperative association, or municipality for the installation, maintenance, and cost of operating a system of street lighting upon the public streets and highways within the district, for installation, maintenance, and operation of a water system, or for the installation, maintenance, and operation of electric service lines and conduits, and to provide water service for fire protection and use by the residents of the district. It may also contract with any corporation, municipality, or other sanitary and improvement district, as permitted by section 31-727, for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting parties. It may also contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction the sanitary and improvement district is located for any public purpose specifically authorized in this section.

Each sanitary and improvement district shall have the books of account, kept by the board of trustees of the district, examined and audited by a certified public accountant or a public accountant for the year ending June 30 and file a copy of the audit with the office of the Auditor of Public Accounts by December 31 of the same year. Such audits may be waived by the Auditor of Public Accounts upon proper showing by the district that the audit is unnecessary. Such examination and audit shall show (1) the gross income of the district from all sources for the previous year, (2) the amount spent for sewage disposal, (3) the amount expended on water mains, (4) the gross amount of sewage processed in the district, (5) the cost per thousand gallons of processing sewage, (6) the amount expended each year for (a) maintenance and repairs, (b) new equipment, (c) new construction work, and (d) property purchased, (7) a detailed statement of all items of expense, (8) the number of employees, (9) the salaries and fees paid employees, (10) the total amount of taxes levied upon the property within the district, and (11) all other facts necessary to give an accurate and comprehensive view of the cost of carrying on the activities and work of such sanitary and improvement district. The reports of all audits provided for in this section shall be and remain a part of the public records in the office of the Auditor of Public Accounts. The expense of such audits shall be paid out of the funds of the district. The Auditor of Public Accounts shall be given access to all books and papers, contracts, minutes, bonds, and other documents and memoranda of every kind and character of such district and be furnished all additional information possessed by any present or past officer or employee of any such district, or by any other person, that is essential to the making of a comprehensive and correct audit.

If any sanitary and improvement district fails or refuses to cause such annual audit to be made of all of its functions, activities, and transactions for the fiscal year within a period of six months following the close of such fiscal year, unless such audit has been waived, the Auditor of Public Accounts shall, after due notice and a hearing to show cause by such district, appoint a certified public accountant or public accountant to conduct the annual audit of the district and the fee for such audit shall become a lien against the district.

Whenever the sanitary sewer system or any part thereof of a sanitary and improvement district is directly or indirectly connected to the sewerage system of any city, such city, without enacting an ordinance or adopting any resolution for such purpose, may collect such city's applicable rental or use charge from the users in the sanitary and improvement district and from the owners of the property served within the sanitary and improvement district. The charges of such city shall be charged to each property served by the city



sewerage system, shall be a lien upon the property served, and may be collected from the owner or the person, firm, or corporation using the service. If the city's applicable rental or service charge is not paid when due, such sum may be recovered by the municipality in a civil action or it may be assessed against the premises served in the same manner as special taxes or assessments are assessed by such city and collected and returned in the same manner as other municipal special taxes or assessments are enforced and collected. When any such tax or assessment is levied, it shall be the duty of the city clerk to deliver a certified copy of the ordinance to the county treasurer of the county in which the premises assessed are located and such county treasurer shall collect the same as provided by law and return the same to the city treasurer. Funds of such city raised from such charges shall be used by it in accordance with laws applicable to its sewer service rental or charges. The governing body of any city may make all necessary rules and regulations governing the direct or indirect use of its sewerage system by any user and premises within any sanitary and improvement district and may establish just and equitable rates or charges to be paid to such city for use of any of its disposal plants and sewerage system. The board of trustees shall have power, in connection with the issuance of any warrants or bonds of the district, to agree to make a specified minimum levy on taxable property in the district to pay, or to provide a sinking fund to pay, principal and interest on warrants and bonds of the district for such number of years as the board may establish at the time of making such agreement and shall also have power to agree to enforce, by foreclosure or otherwise as permitted by applicable laws, the collection of special assessments levied by the district. Such agreements may contain provisions granting to creditors and others the right to enforce and carry out the agreements on behalf of the district and its creditors.

The board of trustees or administrator shall have power to sell and convey real and personal property of the district on such terms as it or he or she shall determine, except that real estate shall be sold to the highest bidder at public auction after notice of the time and place of the sale has been published for three consecutive weeks prior to the sale in a newspaper of general circulation in the county. The board of trustees or administrator may reject such bids and negotiate a sale at a price higher than the highest bid at the public auction at such terms as may be agreed.

Sec. 93. Section 32-310, Revised Statutes Supplement, 1994, is amended to read:

32-310. (1) The State Department of Education, the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support Department of Health, the Department of Public Institutions, and the Department of Social Services shall provide the opportunity to register to vote at the time of application, review, or change of address for the following programs, as applicable: (a) the food stamp program; (b) the medicaid program; (c) the WIC program as defined in section 71-2225; (d) the aid to dependent children program; (e) the vocational rehabilitation program; and (f) any other public assistance program or program primarily for the purpose of providing services to persons with disabilities. If the application, review, or change of address is accomplished through an agent or contractor of the department, the agent or contractor shall provide the opportunity to register to vote. Any information on whether an applicant registers or declines to register and the agency at which he or she registers shall be confidential and shall only be used for voter registration purposes.

(2) The department, agent, or contractor shall make the mail-in registration form described in section 32-320 available at the time of application, review, or change of address and shall provide assistance, if necessary, to the applicant in completing the form. The department shall retain records indicating whether an applicant accepted or declined the opportunity to register to vote.

(3) Department personnel, agents, and contractors involved in the voter registration process pursuant to this section shall not be considered deputy registrars or agents or employees of the election commissioner or county clerk.

(4) The applicant may return the completed form to the department, agent, or contractor or may personally mail or deliver the form to the election commissioner or county clerk as provided in section 32-321. If the applicant returns the completed form to the department, agent, or contractor, the department, agent, or contractor shall deliver the form to the election commissioner or county clerk of the county in which the office of the department, agent, or contractor is located not later than ten days after receipt by the department, agent, or contractor, except that if the form is

returned to the department, agent, or contractor within five days prior to the third Friday preceding any election, it shall be delivered not later than five days after the date it is returned. The election commissioner or county clerk shall, if necessary, forward the form to the election commissioner or county clerk of the county in which the applicant resides within such prescribed time limits. Registration forms shall be completed and returned to the department, agency, or contractor by the close of business on the third Friday preceding any election to be registered to vote at such election.

(5) The departments shall adopt and promulgate rules and regulations to ensure compliance with this section.

Sec. 94. Section 37-215.01, Reissue Revised Statutes of Nebraska, is amended to read:

37-215.01. The commission is authorized, when written request has been filed by the property owner, to remove by any means at any time any deer, antelope, or elk causing damage to real or personal property. If it shall be necessary to kill any such deer, antelope, or elk to remove the same, the carcass thereof shall first be offered to local hospitals or other local charitable institutions or to the ~~Department of Public Institutions~~ Department of Health and Human Services for use in institutions under its jurisdiction. If the institutions or department do not desire the same, such carcass may be sold or disposed of in any other manner.

Sec. 95. Section 37-1254.05, Reissue Revised Statutes of Nebraska, is amended to read:

37-1254.05. Except as provided in section 37-1254.03, any test made pursuant to section 37-1254.02, if made in conformance with the requirements of this section, shall be competent evidence in any prosecution under a state law or city or village ordinance regarding the actual physical control of any motorboat under propulsion upon the waters of this state while under the influence of alcohol or regarding the actual physical control of any motorboat under propulsion upon the waters of this state when the concentration of alcohol in the blood, breath, or urine is in excess of allowable levels in violation of section 37-1254.01 or a city or village ordinance. To be considered valid, tests shall have been performed according to methods approved by the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure and by an individual possessing a valid permit issued by the department for such purpose. The department may approve satisfactory techniques or methods and ascertain the qualifications and competence of individuals to perform such tests and may issue permits which shall be subject to termination or revocation at the discretion of the department.

The permit fee may be established by rules and regulations adopted and promulgated by the department, which fee shall not exceed the actual cost of processing the initial permit. Such fee shall be charged annually to each permit holder. The fees shall be used to defray the cost of processing and issuing the permits and other expenses incurred by the department in carrying out this section. The fee shall be deposited in the state treasury and credited to the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure Cash Fund as a laboratory service fee.

Sec. 96. Section 42-106, Reissue Revised Statutes of Nebraska, is amended to read:

42-106. When an application is made for a license to the county clerk, he or she shall, upon the granting of such license, state in the license the information contained in the application as provided in section 42-104. The license shall, prior to the issuing thereof, be entered of record in the office of the county clerk in a suitable book to be provided for that purpose.

The forms for the application, license, and certificate of marriage shall be provided by the ~~Department of Health~~ Department of Health and Human Services Finance and Support at actual cost as determined by the department.

Sec. 97. Section 42-121, Reissue Revised Statutes of Nebraska, is amended to read:

42-121. Before any county clerk shall issue a marriage license, each female applicant for such license shall file with him or her a certificate which shall state whether such female applicant has laboratory evidence of immunological response to rubella, commonly known as German measles. The certificate shall not be required to contain such evidence of response to rubella when the female applicant (1) is over fifty years of age, (2) has had a surgical sterilization, or (3) presents laboratory evidence of a prior test declaring her immunity to rubella.

If the laboratory evidence indicates a negative immunological response to rubella, the female applicant shall be notified in writing of an opportunity for counseling in regard to the significance of the absence of antibodies to rubella or shall be sent written material indicating such

significance. The results of all tests shall be reported to the laboratory of the Department of Health Department of Health and Human Services Regulation and Licensure. All laboratory notifications shall be confidential and shall not be open to public inspection, except that the Director of Health Director of Regulation and Licensure or some person appointed by him or her may discuss the notification with the attending physician.

Sec. 98. Section 42-347, Revised Statutes Supplement, 1994, is amended to read:

42-347. For purposes of sections 42-347 to 42-380, unless the context otherwise requires:

(1) Authorized attorney shall mean an attorney (a) employed by the county subject to the approval of the county board, (b) employed by the Department of Social Services Department of Health and Human Services Finance and Support, or (c) appointed by the court, who is authorized to investigate and prosecute child and spousal support cases. An authorized attorney shall represent the state as provided in section 43-512.03;

(2) Dissolution of marriage shall mean the termination of a marriage by decree of a court of competent jurisdiction upon a finding that the marriage is irretrievably broken. The term dissolution of marriage shall be considered synonymous with divorce, and whenever the term divorce appears in the statutes it shall mean dissolution of marriage pursuant to sections 42-347 to 42-379;

(3) Legal separation shall mean a decree of a court of competent jurisdiction providing that two persons who have been legally married shall thereafter live separate and apart and providing for any necessary adjustment of property, support, and custody rights between the parties but not dissolving the marriage; and

(4) Spousal support, when used in the context of income withholding or any provisions of law which might lead to income withholding, shall mean alimony or maintenance support for a spouse or former spouse when ordered as a part of an order, decree, or judgment which provides for child support and the child and spouse or former spouse are living in the same household.

Sec. 99. Section 42-358, Revised Statutes Supplement, 1994, is amended to read:

42-358. (1) The court may appoint an attorney to protect the interests of any minor children of the parties. Such attorney shall be empowered to make independent investigations and to cause witnesses to appear and testify on matters pertinent to the welfare of the children. The court shall by order fix the fee, including disbursements, for such attorney, which amount shall be taxed as costs and paid by the parties as ordered. If the court finds that the party responsible is indigent, the court may order the county to pay the costs.

(2) Following entry of any decree, the court having jurisdiction over the minor children of the parties may at any time appoint an attorney, as friend of the court, to initiate contempt proceedings for failure of any party to comply with an order of the court directing such party to pay temporary or permanent child support. The county attorney or authorized attorney may be appointed by the court for the purposes provided in this section, in which case the county attorney or authorized attorney shall represent the state.

(3) The clerk of each district court shall maintain child support orders and delinquency records by the sums due to the court-ordered payee, except as provided in section 43-512.07, in each case docketed in which child support is fixed by order of the court. For support orders in all cases issued before September 6, 1991, and for support orders issued or modified on or after September 6, 1991, in cases in which no party has applied for services under Title IV-D of the Social Security Act, as amended, each month the clerk shall certify all cases in which the court-ordered child support or spousal support is delinquent in an amount equal to the support due and payable for a one-month period of time to the judge presiding over domestic relations cases and to the county attorney or authorized attorney. A rebuttable presumption of contempt shall be established if a prima facie showing is made that the court-ordered child or spousal support is delinquent. In cases in which one of the parties receives services under Title IV-D of the Social Security Act, as amended, the clerk shall certify all support orders issued or modified on or after September 6, 1991, to the county attorney or authorized attorney.

In each case certified, income withholding shall be implemented pursuant to the Income Withholding for Child Support Act. If income withholding is not feasible and no other action is pending for the collection of support payments, the court shall appoint an attorney to commence contempt of court proceedings. If the county attorney or authorized attorney consents, he or she may be appointed for such purpose. The contempt proceeding shall be

instituted within ten days following appointment, and the case shall be diligently prosecuted to completion. The court shall by order fix the fee, including disbursements, for such attorney, which amount shall be taxed as costs and paid by the parties as ordered. Any fees allowed for the services of any county attorney or authorized attorney shall be paid to the Department of Social Services Department of Health and Human Services Finance and Support when there is an assignment of support to the department pursuant to section 43-512.07 or when an application for child support services is on file with a county attorney or authorized attorney. If the court finds the party responsible is indigent, the court may order the county to pay the costs.

(4) If, at the hearing, the person owing child or spousal support is called for examination as an adverse party and such person refuses to answer upon the ground that his or her testimony may be incriminating, the court may, upon the motion of the county attorney or authorized attorney, require the person to answer and produce the evidence. In such a case the evidence produced shall not be admissible in any criminal case against such person nor shall any evidence obtained because of the knowledge gained by such evidence be so admissible.

(5) The court may order access to all revenue information maintained by the Department of Revenue or other agencies concerning the income of persons liable or who pursuant to this section and sections 42-358.08 and 42-821 may be found liable to pay child or spousal support payments.

(6) Any person aggrieved by a determination of the court may appeal such decision to the Court of Appeals.

Sec. 100. Section 42-358.08, Revised Statutes Supplement, 1994, is amended to read:

42-358.08. Notwithstanding any other provision of law regarding the confidentiality of records and when not prohibited by the federal Privacy Act of 1974, Public Law 93-579, as amended, each department and agency of state, county, and city government and each employer or other payor as defined in section 43-1709 shall, upon request, furnish to any court-appointed individuals, the county attorney, any authorized attorney, or the Department of Social Services Department of Health and Human Services Finance and Support an absent parent's address, social security number, amount of income, health insurance information, and employer's name and address for the exclusive purpose of establishing and collecting child or spousal support. Information so obtained shall be used for no other purpose. An action may be filed in the district court to enforce this section.

Sec. 101. Section 42-705, Reissue Revised Statutes of Nebraska, is amended to read:

42-705. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) The individual is personally served with notice within this state;

(2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) The individual resided with the child in this state;

(4) The individual resided in this state and provided prenatal expenses or support for the child;

(5) The child resides in this state as a result of the acts or directives of the individual;

(6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;

(7) The individual asserted parentage in this state pursuant to section 43-104.02, with the Department of Social Services or pursuant to section 71-628, 71-640.01, or 71-640.02 with the Department of Health Department of Health and Human Services Finance and Support; or

(8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

Sec. 102. Section 42-723, Reissue Revised Statutes of Nebraska, is amended to read:

42-723. (a) The Department of Social Services Department of Health and Human Services Finance and Support is the state information agency under the Uniform Interstate Family Support Act.

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under the act and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under the act received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

Sec. 103. Section 42-903, Reissue Revised Statutes of Nebraska, is amended to read:

42-903. For purposes of the Protection from Domestic Abuse Act, unless the context otherwise requires:

(1) Abuse shall mean the occurrence of one or more of the following acts between household members:

(a) Attempting to cause or intentionally, knowingly, or recklessly causing bodily injury with or without a deadly weapon; or

(b) Placing, by physical menace, another in fear of imminent bodily injury;

(2) Course of conduct shall mean a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including a series of acts of following, detaining, restraining the personal liberty of, or stalking the person or telephoning the person;

(3) Department shall mean the Department of Social Services Department of Health and Human Services;

(4) Family or household members shall include spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common whether or not they have been married or have lived together at any time, and other persons related by consanguinity or affinity;

(5) Harass shall mean to engage in a knowing and willful course of conduct directed at a specific person which seriously terrifies, threatens, or intimidates the person and which serves no legitimate purpose; and

(6) Law enforcement agency shall mean the police department or town marshal in incorporated municipalities and the office of the sheriff in unincorporated areas.

Sec. 104. Section 42-917, Revised Statutes Supplement, 1995, is amended to read:

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

Sec. 105. Section 43-104.01, Revised Statutes Supplement, 1995, is amended to read:

43-104.01. (1) The Department of Social Services Department of Health and Human Services Finance and Support shall establish a biological father registry which shall record the names and addresses of (a) any person adjudicated by a court of this state to be the father of a child born out of wedlock, (b) any person who has filed with the registry a notice of intent to claim paternity and obtain custody of such child, and (c) any person adjudicated by a court of another state or territory of the United States to be the father of such child, if a certified copy of the court order has been filed with the registry by that person or any other person.

(2) A notice of intent to claim paternity filed with the registry shall include the claimant's name and address, the name and last-known address of the mother, and the month and year of the birth or the expected birth of the child. The person filing the notice shall notify the registry of any change of address pursuant to procedures prescribed by regulations of the department.

(3) Any person filing a notice of intent to claim paternity with the biological father registry may revoke such notice, and upon receipt of such revocation by the registry, the effect shall be as if no filing had ever been made.

(4) The department shall not divulge the names and addresses of persons listed with the registry to any other person except as authorized by law or upon order of a court for good cause shown.

(5) The department may develop information about the registry and may distribute such information, through their existing publications, to the news media and the public. The department may provide information about the registry to the Department of Correctional Services, the Department of Health and Human Services, and the Department of Health Department of Health and Human Services Regulation and Licensure, who may distribute such information through their existing publications.

Sec. 106. Section 43-104.02, Revised Statutes Supplement, 1995, is amended to read:

43-104.02. As provided in section 43-104.01, a person claiming to be the father of the child and who intends to claim paternity and obtain custody of the child shall file with the biological father registry maintained by the Department of Social Services Department of Health and Human Services Finance and Support on forms provided by the department, within five business days after the birth of the child, or within five business days after receipt of the notice contemplated in section 43-104.12, or within five business days after the last date of any published notice provided pursuant to section 43-104.14, whichever is later, a notice of intent to claim paternity and obtain custody. A notice of intent to claim paternity and obtain custody of the child shall be considered to have been filed if it is received by the Department of Social Services Department of Health and Human Services Finance and Support or postmarked prior to the end of the fifth business day contemplated in this subsection.

Sec. 107. Section 43-104.03, Revised Statutes Supplement, 1995, is amended to read:

43-104.03. Within three days after the filing of a notice of intent to claim paternity with the biological father registry pursuant to section 43-104.02, the Director of Social Services Director of Finance and Support shall cause a certified copy of such notice to be mailed by certified mail to (1) the mother or prospective mother of such child at the last-known address shown on the notice of intent to claim paternity and obtain custody or (2) an agent specifically designated in writing by the mother or prospective mother to receive such notice. The notice shall be admissible in any action for paternity under sections 43-1401 to 43-1418, shall estop the claimant from denying paternity of such child thereafter, and shall contain language that the claimant acknowledges liability for contribution, to the support and education of the child after birth and for contribution to the pregnancy-related medical expenses of the mother.

Sec. 108. Section 43-104.04, Revised Statutes Supplement, 1995, is amended to read:

43-104.04. If a notice of intent to claim paternity is not timely filed with the biological father registry pursuant to section 43-104.02, the mother of a child born out of wedlock or an agent specifically designated in writing by the mother may request, and the Department of Social Services Department of Health and Human Services Finance and Support shall supply, a certificate that no notice of intent to claim paternity has been filed with the biological father registry and the filing of such certificate pursuant to section 43-102 shall eliminate the need or necessity of a consent or relinquishment for adoption by the natural father of such child.

Sec. 109. Section 43-104.07, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.07. The petition for adoption of a child born in a foreign country shall be accompanied by: (1) A document or documents from a court, official department, or government agency of the country of origin stating that the parent has consented to the adoption, stating that the parental rights of the parents of the child have been terminated, or stating that the child to be adopted has been abandoned or relinquished by the natural parents and that the child is to immigrate to the United States for the purpose of adoption; and (2) written consent to the adoption of the child from a child placement agency licensed by the Department of Social Services Department of Health and Human Services Regulation and Licensure or the agency's duly authorized representative which placed the child with the adopting person or persons. The consent shall be signed and acknowledged before an officer authorized to acknowledge deeds in the state where the consent is signed and shall not require a witness.



Any document in a foreign language shall be translated into English by the Department of State or by a translator who shall certify the accuracy of the translation.

A guardian shall not be required to be appointed to give consent to the adoption of any child born in a foreign country when the consent requirements of this section have been met.

Sec. 110. Section 43-105, Revised Statutes Supplement, 1995, is amended to read:

43-105. If consent is not required of both parents if living, the surviving parent of a child born in lawful wedlock, or the mother or mother and father of a child born out of wedlock, because of the provisions of subdivision (3) of section 43-104, substitute consents shall be filed as follows: (1) Consent to the adoption of a minor child who has been committed to the Nebraska Center for Children and Youth or the ~~Department of Social Services~~ Department of Health and Human Services may be given by the department or its duly authorized agent in accordance with section 43-906; (2) when a parent has relinquished a minor child for adoption to any child placement agency licensed or approved by the department or its duly authorized agent, consent to the adoption of such child may be given by such agency; and (3) in all other cases when consent cannot be given as provided in subdivision (3) of section 43-104, consent shall be given by the guardian or guardian ad litem of such minor child appointed by a court, which consent shall be authorized by the court having jurisdiction of such guardian or guardian ad litem.

Sec. 111. Section 43-106.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-106.01. When a child shall have been relinquished by written instrument, as provided by sections 43-104 and 43-106, to the ~~Department of Social Services~~ Department of Health and Human Services or to a licensed child placement agency and the agency has, in writing, accepted full responsibility for the child, the person so relinquishing shall be relieved of all parental duties toward and all responsibilities for such child and have no rights over such child. Nothing contained in this section shall impair the right of such child to inherit.

Sec. 112. Section 43-106.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-106.02. Prior to the relinquishment of a child for adoption, a representative of the ~~Department of Social Services~~ Department of Health and Human Services or of any child placement agency licensed by the ~~department~~ Department of Health and Human Services Regulation and Licensure or an attorney and a witness shall present a copy or copies of the nonconsent form as provided in section 43-146.06 to the relinquishing parent or parents and explain the effects of signing such form.

Sec. 113. Section 43-107, Reissue Revised Statutes of Nebraska, is amended to read:

43-107. (1)(a) For adoption placements occurring or in effect prior to January 1, 1994, upon the filing of a petition for adoption, the county judge shall, except in the adoption of children by stepparents when the requirement of an investigation is discretionary, request the ~~Department of Social Services~~ Department of Health and Human Services or any child placement agency licensed by the ~~department~~ Department of Health and Human Services Regulation and Licensure to examine into the allegations set forth in the petition and to ascertain any other facts relating to such minor child and the person or persons petitioning to adopt such child as may be relevant to the propriety of such adoption, except that the county judge shall not be required to request such an examination if the judge determines that information compiled in a previous examination or study is sufficiently current and comprehensive. Upon the request being made, the ~~Department of Social Services~~ Department of Health and Human Services or other licensed agency shall conduct an investigation and report its findings to the county judge in writing at least one week prior to the date set for hearing.

(b)(i) For adoption placements occurring on or after January 1, 1994, upon the filing of a petition for adoption, a preplacement adoptive home study shall be filed with the county court, which study is completed by the ~~department~~ Department of Health and Human Services or a licensed child placement agency within one year before the date on which the adoptee is placed with the petitioner or petitioners and indicates that the placement of a child for the purpose of adoption would be appropriate.

(ii) An adoptive home study shall not be required when the petitioner is a stepparent of the adoptee unless required by the court, except that for petitions filed on or after January 1, 1994, the county judge shall order the petitioner or his or her attorney to request the Nebraska State

Patrol to file a Nebraska criminal history record information check and to request the department to conduct and file a check of the central register created in section 28-718 for any history of the petitioner of behavior injurious to or which may endanger the health or morals of a child. An adoption decree shall not be issued until such records are on file with the court. The petitioner shall pay the cost of the Nebraska criminal history record information check and the check of the central register.

(iii) The placement of a child for foster care made by or facilitated by the department or a licensed child placement agency in the home of a person who later petitions the court to adopt the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the county court at least one week prior to the hearing for adoption.

(iv) A voluntary placement for purposes other than adoption made by a parent or guardian of a child without assistance from an attorney, physician, or other individual or agency which later results in a petition for the adoption of the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the county court at least one week prior to the hearing for adoption.

(v) Any adoptive home study required by this section shall be conducted by the department or a licensed child placement agency at the expense of the petitioner or petitioners unless such expenses are waived by the department or licensed child placement agency. The department or licensed agency shall determine the fee or rate for the adoptive home study.

(vi) The preplacement or postplacement adoptive home study shall be performed as prescribed in rules and regulations of the department and shall include at a minimum an examination into the facts relating to the petitioner or petitioners as may be relevant to the propriety of such adoption. Such rules and regulations shall require an adoptive home study to include a Nebraska criminal history record information check and a check of the central register created in section 28-718 for any history of the petitioner or petitioners of behavior injurious to or which may endanger the health or morals of a child.

(2) Upon the filing of a petition for adoption, the county judge shall require that a complete medical history be provided on the child, except that in the adoption of a child by a stepparent the provision of a medical history shall be discretionary. A medical history shall be provided, if available, on the biological mother and father and their biological families, including, but not limited to, siblings, parents, grandparents, aunts, and uncles, unless the child is foreign born or was abandoned. The medical history or histories shall be reported on a form provided by the Bureau of Vital Statistics and filed along with the report of adoption as provided by section 71-626. If the medical history or histories do not accompany the report of adoption, the Bureau of Vital Statistics shall inform the county court and the State Court Administrator. The medical history or histories shall be made part of the court record. After the entry of a decree of adoption, the court shall retain a copy and forward the original medical history or histories to the Bureau of Vital Statistics. This subsection shall only apply when the relinquishment or consent for an adoption is given on or after September 1, 1988.

Sec. 114. Section 43-117, Reissue Revised Statutes of Nebraska, is amended to read:

43-117. The ~~Department of Social Services~~ Department of Health and Human Services may make payments as needed in behalf of a ward of the department with special needs after the legal completion of his or her adoption. Such payments to adoptive parents may include maintenance costs, medical and surgical expenses, and other costs incidental to the care of the child. Payments for maintenance and medical care shall terminate on or before the child's twentieth birthday.

Sec. 115. Section 43-117.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-117.01. The ~~Department of Social Services~~ Department of Health and Human Services may make payments as needed on behalf of a ward of a child placement agency with special needs after the legal completion of the child's adoption as authorized by the federal adoption assistance program, 42 U.S.C. 673. Such payments to adoptive parents may include maintenance costs, medical and surgical expenses, and other costs incidental to the care of the child. Payments for maintenance and medical care shall terminate on or before the

child's nineteenth birthday.

Sec. 116. Section 43-117.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-117.02. ~~The Department of Social Services~~ Department of Health and Human Services may make a payment of up to two thousand dollars on behalf of a child with special needs after the legal completion of the child's adoption. The payment to the adoptive parents shall be a reimbursement for nonrecurring adoption expenses, including reasonable and necessary adoption fees, court costs, attorney's fees, and other expenses which are directly related to the legal adoption of the child, which are not incurred in violation of law, and which have not been reimbursed from any other source or funds.

Sec. 117. Section 43-118, Reissue Revised Statutes of Nebraska, is amended to read:

43-118. All actions of the Department of ~~Social Services~~ Health and Human Services under the programs authorized by sections 43-117 to 43-117.02 shall be subject to the following criteria:

(1) The child so adopted shall have been a child for whom adoption would not have been possible without the financial aid provided for by sections 43-117 to 43-117.02; and

(2) The Director of ~~Social Services~~ Health and Human Services shall adopt and promulgate rules and regulations for the administration of sections 43-117 to 43-118.

Sec. 118. Section 43-120, Reissue Revised Statutes of Nebraska, is amended to read:

43-120. Department shall mean the ~~Department of Social Services~~ Department of Health and Human Services.

Sec. 119. Section 43-122, Reissue Revised Statutes of Nebraska, is amended to read:

43-122. Bureau shall mean the Bureau of Vital Statistics of the ~~Department of Health~~ Department of Health and Human Services ~~Finance and Support~~.

Sec. 120. Section 43-123.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-123.01. Medical history shall mean medical history as defined by the ~~Department of Health~~ Department of Health and Human Services ~~Finance and Support~~ in its rules and regulations.

Sec. 121. Section 43-149, Reissue Revised Statutes of Nebraska, is amended to read:

43-149. As used in sections 43-147 to 43-154, unless the context otherwise requires:

(1) Adoption assistance state shall mean the state that is signatory to an adoption assistance agreement in a particular case;

(2) Department shall mean the ~~Department of Social Services~~ Department of Health and Human Services; and

(3) State shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

Sec. 122. Section 43-156, Reissue Revised Statutes of Nebraska, is amended to read:

43-156. For purposes of sections 43-155 to 43-160, unless the context otherwise requires:

(1) Adoption involving exchange of information shall mean an adoption of a child in which one or both of the child's biological parents contract with the department for information about the child obtained through his or her adoptive family;

(2) Exchange-of-information contract shall mean a two-year, renewable obligation, voluntarily agreed to and signed by both the adoptive and biological parent or parents as well as the department; and

(3) Department shall mean the ~~Department of Social Services~~ Department of Health and Human Services.

Sec. 123. Section 43-161, Reissue Revised Statutes of Nebraska, is amended to read:

43-161. ~~The Department of Public Institutions shall transfer all~~ All client records from the Nebraska Industrial Home at Milford to the Department of Social Services. These records shall be maintained by the Department of Social Services ~~Department of Health and Human Services~~ as confidential records but shall be accessible as provided by statute or by the rules and regulations of the Department of Social Services department. ~~The Department of Public Institutions~~ Department of Health and Human Services ~~Regulation and Licensure~~ and the Department of Health ~~Department of Health and~~

Human Services Finance and Support shall have complete access to these records without restriction.

Sec. 124. Section 43-162, Reissue Revised Statutes of Nebraska, is amended to read:

43-162. The prospective adoptive parent or parents and the birth parent or parents of a prospective adoptee may enter into an agreement regarding communication or contact after the adoption between or among the prospective adoptee and his or her birth parent or parents if the prospective adoptee is in the custody of the Department of Social Services Department of Health and Human Services. Any such agreement shall not be enforceable unless approved by the county court pursuant to section 43-163.

Sec. 125. Section 43-163, Reissue Revised Statutes of Nebraska, is amended to read:

43-163. (1) Before approving an agreement under section 43-162, the county court shall appoint a guardian ad litem if the prospective adoptee is not already represented by a guardian ad litem, and the guardian ad litem of the prospective adoptee shall represent the best interests of the child concerning such agreement. The county court may enter an order approving the agreement upon motion of one of the prospective adoptee's birth parents or one of the prospective adoptive parents if the terms of the agreement are approved in writing by the prospective adoptive parent or parents and the birth parent or parents and if the court finds, after consideration of the recommendations of the guardian ad litem and the Department of Social Services Department of Health and Human Services and other factors, that such communication with the birth parent or parents and the maintenance of birth family history would be in the best interests of the prospective adoptee.

(2) In determining if the agreement is in the best interests of the prospective adoptee, the county court shall consider the following factors as favoring communication with the birth parent or parents: Whether the prospective adoptee and birth parent or parents lived together for a substantial period of time; the prospective adoptee exhibits attachment or bonding to such birth parent or parents; and the adoption is a foster-parent adoption with the birth parent or parents having relinquished the prospective adoptee due to an inability to provide him or her with adequate parenting.

Sec. 126. Section 43-164, Reissue Revised Statutes of Nebraska, is amended to read:

43-164. Failure to comply with the terms of an order entered pursuant to section 43-163 shall not be grounds for setting aside an adoption decree, for revocation of a written consent to adoption after the consent has been approved by the county court, or for revocation of a relinquishment of parental rights after the relinquishment has been accepted in writing by the Department of Social Services Department of Health and Human Services as provided in section 43-106.01.

Sec. 127. Section 43-247, Reissue Revised Statutes of Nebraska, is amended to read:

43-247. The juvenile court shall have exclusive original jurisdiction as to any juvenile defined in subdivision (1) of this section who is under the age of sixteen, as to any juvenile defined in subdivision (3) of this section, and as to the parties and proceedings provided in subdivisions (5), (6), and (8) of this section. As used in this section, all references to the juvenile's age shall be the age at the time the act which occasioned the juvenile court action occurred. The juvenile court shall have concurrent original jurisdiction with the district court as to any juvenile defined in subdivision (2) of this section. The juvenile court shall have concurrent original jurisdiction with the district court and county court as to any juvenile defined in subdivision (1) of this section who is age sixteen or seventeen and any juvenile defined in subdivision (4) of this section. Notwithstanding any disposition entered by the juvenile court under the Nebraska Juvenile Code, the juvenile court's jurisdiction over any individual adjudged to be within the provisions of this section shall continue until the individual reaches the age of majority or the court otherwise discharges the individual from its jurisdiction.

The juvenile court in each county as herein provided shall have jurisdiction of:

(1) Any juvenile who has committed an act other than a traffic offense which would constitute a misdemeanor or an infraction under the laws of this state, or violation of a city or village ordinance;

(2) Any juvenile who has committed an act which would constitute a felony under the laws of this state;

(3) Any juvenile (a) who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper

parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian neglects or refuses to provide special care made necessary by the mental condition of the juvenile; or who is in a situation or engages in an occupation dangerous to life or limb or injurious to the health or morals of such juvenile or (b) who, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school;

(4) Any juvenile who has committed an act which would constitute a traffic offense as defined in section 43-245;

(5) The parent, guardian, or custodian who has custody of any juvenile described in this section;

(6) The proceedings for termination of parental rights as provided in the Nebraska Juvenile Code;

(7) The proceedings for termination of parental rights as provided in section 42-364; and

(8) Any juvenile who has been voluntarily relinquished, pursuant to section 43-106.01, to the Department of Social Services Department of Health and Human Services or any child placement agency licensed by the Department of Social Services Department of Health and Human Services Regulation and Licensure.

Notwithstanding the provisions of the Nebraska Juvenile Code, the determination of jurisdiction over any Indian child as defined in section 43-1503 shall be subject to the Nebraska Indian Child Welfare Act.

Sec. 128. Section 43-250, Reissue Revised Statutes of Nebraska, is amended to read:

43-250. An officer who takes a juvenile into temporary custody under section 43-248 shall immediately take reasonable measures to notify the juvenile's parent, guardian, custodian, or relative and shall proceed as follows:

(1) The officer shall release such juvenile;

(2) The officer shall prepare in triplicate a written notice requiring the juvenile to appear before the juvenile court or probation officer of the county in which such juvenile was taken into custody at a time and place specified in the notice or at the call of the court. The notice shall also contain a concise statement of the reasons such juvenile was taken into custody. The officer shall deliver one copy of the notice to such juvenile and require such juvenile or his or her parent, guardian, other custodian, or relative, or both, to sign a written promise that such signer will appear at the time and place designated in the notice. Upon the execution of the promise to appear, the officer shall immediately release such juvenile. The officer shall, as soon as practicable, file one copy of the notice with the county attorney and, when required by the juvenile court, also file a copy of the notice with the juvenile court, the officer appointed by the court for such purpose, or the probation officer;

(3) The officer shall take such juvenile without unnecessary delay before the juvenile court or probation officer of the county in which such juvenile was taken into custody and deliver the custody of such juvenile to the juvenile court or probation officer; or

(4) When a juvenile is taken into temporary custody pursuant to subsection (3) of section 43-248, the officer may deliver the custody of such juvenile to the Department of Social Services Department of Health and Human Services which shall make a temporary placement of the juvenile in the least restrictive environment consistent with the best interests of the juvenile as determined by the department. The department shall supervise such placement and, if necessary, consent to any necessary emergency medical, psychological, or psychiatric treatment for such juvenile. The department shall have no other authority with regard to such temporary custody until or unless there is an order by the court placing the juvenile in the custody of the department. If the officer makes disposition of the juvenile pursuant to this subdivision, the officer shall make a full written report to the county attorney within twenty-four hours of taking such juvenile into temporary custody. If a court order of temporary custody is not issued within forty-eight hours of taking the juvenile into custody, the temporary custody by the department shall terminate and the child shall be returned to the custody of his or her parent, guardian, custodian, or relative.

In determining which disposition of the juvenile he or she will make, the officer shall prefer the alternative which least restricts the

juvenile's freedom of movement if such alternative is compatible with the best interests of the juvenile and the community.

Sec. 129. Section 43-254, Reissue Revised Statutes of Nebraska, is amended to read:

43-254. Pending the adjudication of any case, if it appears that the need for placement or further detention exists, the juvenile may be (1) placed or detained a reasonable period of time on order of the court in the temporary custody of either the person having charge of the juvenile or some other suitable person, (2) kept in some suitable place provided by the city or county authorities, (3) placed in any proper and accredited charitable institution, (4) placed in a state institution, except any adult penal institution, when proper facilities are available and the only local facility is a city or county jail, at the expense of the committing county on a per diem basis as determined from time to time by the head of the particular institution, or (5) placed in the temporary care and custody of the Department of Social Services Department of Health and Human Services when it does not appear that there is any need for detention in a locked facility. The court may assess the cost of such placement or detention in whole or in part to the parent of the juvenile as provided in section 43-290.

If a juvenile has been removed from his or her parent, guardian, or custodian pursuant to subdivision (3) of section 43-248, the court may enter an order continuing detention or placement only upon a written determination that continuation of the juvenile in his or her home would be contrary to the welfare of such juvenile and that reasonable efforts were made, prior to placement, to prevent or eliminate the need for removal and to make it possible for the juvenile to return to his or her home.

Sec. 130. Section 43-284, Reissue Revised Statutes of Nebraska, is amended to read:

43-284. When any juvenile is adjudged to be under subdivision (3) of section 43-247, the court may permit such juvenile to remain in his or her own home subject to supervision or may make an order committing the juvenile to the (1) care of some suitable institution, (2) care of some reputable citizen of good moral character, (3) care of some association willing to receive the juvenile embracing in its objects the purpose of caring for or obtaining homes for such juveniles, which association shall have been accredited as provided in section 43-296, (4) care of a suitable family, or (5) care and custody of the Department of Social Services Department of Health and Human Services.

Under subdivision (1), (2), (3), or (4) of this section, upon a determination by the court that there are no parental, private, or other public funds available for the care, custody, education, and maintenance of a juvenile, the court may order a reasonable sum for the care, custody, education, and maintenance of the juvenile to be paid out of a fund which shall be appropriated annually by the county where the petition is filed until suitable provisions may be made for the juvenile without such payment.

The amount to be paid by a county for education pursuant to this section shall not exceed the average cost for education of a public school student in the county in which the juvenile is placed and shall be paid only for education in kindergarten through grade twelve.

The court may enter a dispositional order removing a juvenile from his or her home only upon a written determination that continuation in the home would be contrary to the welfare of such juvenile and that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from his or her home and to make it possible for the juvenile to return.

Sec. 131. Section 43-284.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-284.01. Any juvenile adjudged to be under subdivision (8) of section 43-247 shall remain in the custody of the Department of Social Services Department of Health and Human Services or the licensed child placement agency to whom the juvenile has been relinquished unless the court finds by clear and convincing evidence that the best interests of the juvenile require that an alternative disposition be made. If the court makes such finding, then alternative disposition may be made as provided under section 43-284. Such alternative disposition shall relieve the department or licensed child placement agency of all responsibility with regard to such juvenile.

Sec. 132. Section 43-284.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-284.02. The Department of Social Services Department of Health and Human Services may make payments as needed on behalf of a child who has been a ward of the department after the appointment of a guardian for the child. Such payments to the guardian may include maintenance costs, medical



and surgical expenses, and other costs incidental to the care of the child. All such payments shall terminate on or before the child's nineteenth birthday. The child under guardianship shall be a child for whom the guardianship would not be possible without the financial aid provided under this section.

The Director of Social Services Director of Health and Human Services shall adopt and promulgate rules and regulations for the administration of this section.

Sec. 133. Section 43-285, Reissue Revised Statutes of Nebraska, is amended to read:

43-285. (1) When the court awards a juvenile to the care of the Department of Social Services Department of Health and Human Services, an association, or an individual in accordance with the Nebraska Juvenile Code, the juvenile shall, unless otherwise ordered, become a ward and be subject to the guardianship of the department, association, or individual to whose care he or she is committed. Any such association and the department shall have authority, by and with the assent of the court, to determine the care, placement, medical services, psychiatric services, training, and expenditures on behalf of each juvenile committed to it. Such guardianship shall not include the guardianship of any estate of the juvenile.

(2) Following an adjudication hearing at which a juvenile is adjudged to be under subdivision (3) of section 43-247, the court may order the department to prepare and file with the court a proposed plan for the care, placement, and services which are to be provided to such juvenile and his or her family. The department shall include in the plan for a juvenile who is sixteen years of age or older and subject to the guardianship of the department a written proposal describing programs and services designed to assist the juvenile in acquiring independent living skills. If any other party, including, but not limited to, the guardian ad litem, parents, county attorney, or custodian, proves by a preponderance of the evidence that the department's plan is not in the juvenile's best interests, the court shall disapprove the department's plan. The court may modify the plan, order that an alternative plan be developed, or implement another plan that is in the juvenile's best interests. In its order the court shall include a finding regarding the appropriateness of the programs and services described in the proposal designed to assist the juvenile in acquiring independent living skills. Rules of evidence shall not apply at the dispositional hearing when the court considers the plan that has been presented. The department or any other party may request a review of the court's order concerning the plan by a juvenile review panel as provided in section 43-287.04.

(3) Within thirty days after an order awarding a juvenile to the care of the department, an association, or an individual and until the juvenile reaches the age of majority, the department, association, or individual shall file with the court a report stating the location of the juvenile's placement and the needs of the juvenile in order to effectuate the purposes of subdivision (1) of section 43-246. The department, association, or individual shall file a report with the court once every six months or at shorter intervals if ordered by the court or deemed appropriate by the department, association, or individual. The department, association, or individual shall file a report and notice of placement change with the court and shall send copies of the notice to all interested parties at least seven days before the placement of the juvenile is changed from what the court originally considered to be a suitable family home or institution to some other custodial situation in order to effectuate the purposes of subdivision (1) of section 43-246. The court, on its own motion or upon the filing of an objection to the change by an interested party, may order a hearing to review such a change in placement and may order that the change be stayed until the completion of the hearing. Nothing in this section shall prevent the court on an ex parte basis from approving an immediate change in placement upon good cause shown. The department may make an immediate change in placement without court approval only if the juvenile is in a harmful or dangerous situation or when the foster parents request that the juvenile be removed from their home. Approval of the court shall be sought within twenty-four hours after making the change in placement or as soon thereafter as possible. The department or any other party may request a review of the change in placement by a juvenile review panel in the manner set out in section 43-287.04. The department shall provide the juvenile's guardian ad litem with a copy of any report filed with the court by the department pursuant to this subsection.

(4) When the court awards a juvenile to the care of the department, an association, or an individual, then the department, association, or individual shall have standing as a party to file any pleading or motion, to be heard by the court with regard to such filings, and to be granted any

review or relief requested in such filings consistent with the Nebraska Juvenile Code.

(5) Whenever a juvenile is in a foster care placement as defined in section 43-1301, the State Foster Care Review Board may participate in proceedings concerning the juvenile as provided in section 43-1313.

(6) Any written findings or recommendations of the State Foster Care Review Board or any designated local foster care review board with regard to a juvenile in a foster care placement submitted to a court having jurisdiction over such juvenile shall be admissible in any proceeding concerning such juvenile if such findings or recommendations have been provided to all other parties of record.

(7) Any member of the State Foster Care Review Board, any of its agents or employees, or any member of any local foster care review board participating in an investigation or making any report pursuant to the Foster Care Review Act or participating in a judicial proceeding pursuant to this section shall be immune from any civil liability that would otherwise be incurred except for false statements negligently made.

Sec. 134. Section 43-286, Revised Statutes Supplement, 1994, is amended to read:

43-286. Notwithstanding the provisions of sections 43-251 and 43-253 to 43-257, no juvenile shall be confined in any jail as a disposition of the court. When any juvenile is adjudicated to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247:

(1) The court may continue the dispositional portion of the hearing, from time to time upon such terms and conditions as the court may prescribe, including an order of restitution of any property stolen or damaged when the same is in the interest of the juvenile's reformation or rehabilitation, and, subject to the further order of the court, may:

(a) Place the juvenile on probation subject to the supervision of a probation officer;

(b) Permit the juvenile to remain in his or her own home, subject to the supervision of the probation officer; or

(c) Cause the juvenile to be placed in a suitable family home or institution, subject to the supervision of the probation officer. If the court has committed the juvenile to the care and custody of the ~~Department of Social Services~~ Department of Health and Human Services, the department shall pay the costs of the suitable family home or institution which are not otherwise paid by the juvenile's parents.

Under subdivision (1)(a), (1)(b), or (1)(c) of this section, upon a determination by the court that there are no parental, private, or other public funds available for the care, custody, and maintenance of a juvenile, the court may order a reasonable sum for the care, custody, and maintenance of the juvenile to be paid out of a fund which shall be appropriated annually by the county where the petition is filed until a suitable provision may be made for the juvenile without such payment;

(2) Except as provided in section 43-287, the court may commit such juvenile to the care and custody of the Office of Juvenile Services, ~~or the Department of Correctional Services~~, but a juvenile under the age of twelve years shall not be committed to the Youth Rehabilitation and Treatment Center-Geneva or to the Youth Rehabilitation and Treatment Center-Kearney unless he or she has violated the terms of probation or has committed an additional offense and the court finds that the interests of the juvenile and the welfare of the community demand his or her commitment. This minimum age provision shall not apply if the act in question is murder or manslaughter;

(3) When a juvenile is placed on probation or under the supervision of the court and it is alleged that the juvenile is again a juvenile as defined by subdivision (1), (2), (3)(b), or (4) of section 43-247, a petition may be filed and the same procedure followed and rights given at a hearing on the original petition. If an adjudication is made that the allegations of the petition are true, the court may make any disposition authorized by this section for such adjudications; or

(4) When a juvenile is placed on probation or under the supervision of the court for conduct under subdivision (1), (2), (3)(b), or (4) of section 43-247 and it is alleged that the juvenile has violated a term of probation or supervision or that the juvenile has violated an order of the court, a motion to revoke probation or supervision or to change the disposition may be filed and proceedings held as follows:

(a) The motion shall set forth specific factual allegations of the alleged violations and a copy of such motion shall be served on all persons required to be served by sections 43-262 to 43-267;

(b) The juvenile shall be entitled to a hearing before the court to determine the validity of the allegations set forth pursuant to subdivision

(4)(a) of this section. At such hearing the juvenile shall be entitled to those rights relating to counsel provided by section 43-272 and those rights relating to detention provided by sections 43-254 to 43-256. The juvenile shall also be entitled to speak and present documents, witnesses, or other evidence on his or her own behalf. He or she may confront persons who have given adverse information concerning the alleged violations, may cross-examine such persons, and may show that he or she did not violate the conditions of his or her probation or, if he or she did, that mitigating circumstances suggest that the violation does not warrant revocation. The revocation hearing shall be held within a reasonable time after the juvenile is taken into custody;

(c) The hearing shall be conducted in an informal manner and shall be flexible enough to consider evidence, including letters, affidavits, and other material, that would not be admissible in an adversary criminal trial;

(d) The juvenile shall be given a preliminary hearing in all cases when the juvenile is confined, detained, or otherwise significantly deprived of his or her liberty as a result of his or her alleged violation of probation. Such preliminary hearing shall be held before an impartial person other than his or her probation officer or any person directly involved with the case. If as a result of such preliminary hearing probable cause is found to exist, the juvenile shall be entitled to a hearing before the court in accordance with subdivisions (4)(b) and (4)(c) of this section;

(e) If the juvenile is found by the court to have violated the terms of his or her probation, the court may modify the terms and conditions of the probation order, extend the period of probation, or enter any order of disposition that could have been made at the time the original order of probation was entered or, in the case of the juvenile adjudicated to be within the definitions of subdivision (3)(b) of section 43-247, the court, after considering the dispositions available, may in addition commit such juvenile to the Department of Public Institutions, the Office of Juvenile Services, or the Department of Correctional Services under section 43-287; and

(f) In cases when the court revokes probation, it shall enter a written statement as to the evidence relied on and the reasons for revocation.

Sec. 135. Section 43-287, Revised Statutes Supplement, 1994, is amended to read:

43-287. Notwithstanding the provisions of subdivision (2) of section 43-286, when any juvenile is found by the court to be a juvenile defined by subdivision (3)(b) of section 43-247, the court may (1) enter such order as it is empowered to enter in the case of a juvenile described in subdivision (1) or (2) of section 43-247, except that no such juvenile shall be committed to the Youth Rehabilitation and Treatment Center at Kearney or Geneva, or (2) enter an order committing or placing the juvenile to the care and custody of the Department of Social Services Department of Health and Human Services.

Sec. 136. Section 43-287.01, Revised Statutes Supplement, 1994, is amended to read:

43-287.01. The purpose of sections 43-287.01 to 43-287.06 is to provide for an expedited review of juvenile dispositions by the courts. It is the intent to allow such review only when a court orders the implementation of a plan different than the plan prepared by the Department of Social Services Department of Health and Human Services for the care, placement, and services to be provided to such juvenile and the department or any other party believes such court-ordered plan not to be in the best interests of the juvenile.

It is the intent of sections 43-287.01 to 43-287.06 to remove contested dispositional plans from the appellate process for the purpose of expediting review by a juvenile review panel. Nothing in such sections shall otherwise limit the right of any party to appeal other final orders of a juvenile court pursuant to sections 43-2,106 and 43-2,106.01.

Sec. 137. Section 43-287.03, Reissue Revised Statutes of Nebraska, is amended to read:

43-287.03. A juvenile review panel shall review a disposition of a court when the court makes an order directing the implementation of a plan different from the plan prepared by the Department of Social Services Department of Health and Human Services concerning the care, placement, or services to be provided to the juvenile and the department or any other party believes that the court's order is not in the best interests of the juvenile.

Sec. 138. Section 43-287.04, Reissue Revised Statutes of Nebraska, is amended to read:

43-287.04. If the Department of Social Services Department of Health and Human Services or any other party desires to have a disposition described in section 43-287.03 reviewed, the department or other party shall have ten days after disposition by the court to file a request for review by a

juvenile review panel. Such request for review shall be filed with the clerk of the county court or separate juvenile court where the action was originally heard. Upon receipt of the request for review, the clerk of the county court or separate juvenile court shall forward a copy of the request to the Clerk of the Supreme Court.

Sec. 139. Section 43-287.05, Reissue Revised Statutes of Nebraska, is amended to read:

43-287.05. A juvenile review panel shall review the disposition of a court de novo on the record. The record shall consist of a transcript and bill of exceptions which shall be requested and prepared as in appeals from the county court to the district court. A juvenile review panel shall affirm the disposition unless it is shown by a preponderance of the evidence that the disposition was not in the best interests of the juvenile, in which case the panel may modify the court-ordered plan or the plan of the Department of Social Services Department of Health and Human Services or may substitute the department's plan for the court-ordered plan and remand the case back to the court with directions to implement such plan. Such review shall stay the enforcement of any order entered by the court.

The review by the juvenile review panel shall be as expeditious as possible, and a decision shall be made within thirty days after receiving the bill of exceptions from the court stenographer. The panel's decision shall be final and binding on the parties, except that the decision may be appealed as provided in section 43-287.06.

Sec. 140. Section 43-287.06, Reissue Revised Statutes of Nebraska, is amended to read:

43-287.06. The Department of Social Services Department of Health and Human Services or any other party may appeal from any final order or judgment entered by the juvenile review panel. Such order or judgment shall be reviewed by the Court of Appeals or the Supreme Court within the same time and in the same manner prescribed by law for review of an order or judgment of the district court. The appellate court shall review the disposition of the juvenile review panel de novo on the record submitted to the panel. Any appeal made pursuant to this section shall not stay any order of a juvenile review panel.

Sec. 141. Section 43-289, Reissue Revised Statutes of Nebraska, is amended to read:

43-289. In no case shall a juvenile committed under the terms of the Nebraska Juvenile Code be confined after he or she reaches the age of majority. The court may, when the health or condition of any juvenile adjudged to be within the terms of such code shall require it, cause the juvenile to be placed in a public hospital or institution for treatment or special care or in an accredited and suitable private hospital or institution which will receive the juvenile for like purposes. Whenever any juvenile has been committed to the Department of Social Services Department of Health and Human Services, the department shall follow the court's orders, if any, concerning the juvenile's specific needs for treatment or special care for his or her physical well-being and healthy personality. If the court finds any such juvenile to be a person with mental retardation, it may, upon attaching a physician's certificate and a report as to the mental capacity of such person, commit such juvenile directly to an authorized and appropriate state or local facility or home.

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

A juvenile committed to any such institution shall be subject to the control of the superintendent thereof, and the superintendent, with the advice and consent of the Department of Health and Human Services, Department of Social Services or the Department of Public Institutions, whichever has supervision of the institution, shall adopt and promulgate rules and regulations for the promotion, paroling, and final discharge of residents such as shall be considered mutually beneficial for the institution and the residents. Upon final discharge of any resident, such department shall file a certified copy of the discharge with the court which committed the resident.

Sec. 142. Section 43-290, Reissue Revised Statutes of Nebraska, is amended to read:

43-290. It is the purpose of this section to promote parental responsibility and to provide for the most equitable use and availability of public money.

Pursuant to the petition filed by the county attorney or any reputable person in accordance with section 43-274, whenever the care or custody of a juvenile is given by the court to someone other than his or her parent, which shall include placement with a state agency, or when a juvenile is given medical, psychological, or psychiatric study or treatment under order

of the court, the court shall make a determination of support to be paid by a parent for the juvenile at the same proceeding at which placement, study, or treatment is determined or at a separate proceeding. Such proceeding, which may occur prior to, at the same time as, or subsequent to adjudication, shall be in the nature of a disposition hearing.

At such proceeding, after summons to the parent of the time and place of hearing served as provided in sections 43-262 to 43-267, the court may order and decree that the parent shall pay, in such manner as the court may direct, a reasonable sum that will cover in whole or part the support, study, and treatment of the juvenile, which amount ordered paid shall be the extent of the liability of the parent. The court in making such order shall give due regard to the cost of study, treatment, and maintenance of the juvenile, the ability of the parent to pay, and the availability of money for the support of the juvenile from previous judicial decrees, social security benefits, veterans benefits, or other sources. Support thus received by the court shall be transmitted to the person, agency, or institution having financial responsibility for such study, treatment, or maintenance and, if a state agency or institution, remitted by such state agency or institution quarterly to the Director of Administrative Services for credit to the proper fund.

Whenever medical, psychological, or psychiatric study or treatment is ordered by the court, whether or not the juvenile is placed with someone other than his or her parent, or if such study or treatment is otherwise provided as determined necessary by the custodian of the juvenile, the court shall inquire as to the availability of insured or uninsured health care coverage or service plans which include the juvenile. The court may order the parent to pay over any plan benefit sums received on coverage for the juvenile. The payment of any deductible under the health care benefit plan covering the juvenile shall be the responsibility of the parent. If the parent willfully fails or refuses to pay the sum ordered or to pay over any health care plan benefit sums received, the court may proceed against him or her as for contempt, either on the court's own motion or on the motion of the county attorney or authorized attorney as provided in section 43-512, or execution shall issue at the request of any person, agency, or institution treating or maintaining such juvenile. The court may afterwards, because of a change in the circumstances of the parties, revise or alter the order of payment for support, study, or treatment.

If the juvenile has been committed to the care and custody of the ~~Department of Social Services~~ Department of Health and Human Services, the department shall pay the costs for the support, study, or treatment of the juvenile which are not otherwise paid by the juvenile's parent.

If no provision is otherwise made by law for the support or payment for the study or treatment of the juvenile, compensation for the study or treatment shall be paid, when approved by an order of the court, out of a fund which shall be appropriated by the county in which the petition is filed.

The juvenile court shall retain jurisdiction over a parent ordered to pay support for the purpose of enforcing such support order for so long as such support remains unpaid but not to exceed ten years from the nineteenth birthday of the youngest child for whom support was ordered.

Sec. 143. Section 43-292, Reissue Revised Statutes of Nebraska, is amended to read:

43-292. The court may terminate all parental rights between the parents or the mother of a juvenile born out of wedlock and such juvenile when the court finds such action to be in the best interests of the juvenile and it appears by the evidence that one or more of the following conditions exist:

(1) The parents have abandoned the juvenile for six months or more immediately prior to the filing of the petition;

(2) The parents have substantially and continuously or repeatedly neglected the juvenile and refused to give the juvenile necessary parental care and protection;

(3) The parents, being financially able, have willfully neglected to provide the juvenile with the necessary subsistence, education, or other care necessary for his or her health, morals, or welfare or have neglected to pay for such subsistence, education, or other care when legal custody of the juvenile is lodged with others and such payment ordered by the court;

(4) The parents are unfit by reason of debauchery, habitual use of intoxicating liquor or narcotic drugs, or repeated lewd and lascivious behavior, which conduct is found by the court to be seriously detrimental to the health, morals, or well-being of the juvenile;

(5) The parents are unable to discharge parental responsibilities because of mental illness or mental deficiency and there are reasonable grounds to believe that such condition will continue for a prolonged

indeterminate period;

(6) Following a determination that the juvenile is one as described in subdivision (3)(a) of section 43-247, reasonable efforts, under the direction of the court, have failed to correct the conditions leading to the determination; or

(7) The juvenile has been in an out-of-home placement for eighteen or more consecutive months and the parents have failed to correct the conditions leading to the juvenile's out-of-home placement in spite of reasonable efforts and services to the parents ordered by the court or offered by the Department of Social Services Department of Health and Human Services or other designated agency.

In order to determine whether or not to seek termination of the parent-juvenile relationship pursuant to subdivision (7) of this section, the county attorney who filed the petition to place the juvenile in an out-of-home placement shall review the case of the juvenile when the juvenile has been in such out-of-home placement for eighteen consecutive months. The review shall occur no later than thirty days after the last day of such eighteen-month period. Nothing contained in this subdivision shall prevent the filing of an action pursuant to subdivision (6) of this section.

The Department of Social Services Department of Health and Human Services shall submit on a timely basis to the county attorney who filed the petition to place the juvenile in an out-of-home placement a list of the name of each such juvenile who has been in an out-of-home placement for eighteen or more consecutive months.

When termination of the parent-juvenile relationship is sought under subdivision (5) of this section, the court shall appoint a guardian ad litem for the alleged incompetent parent. The court may, in any other case, appoint a guardian ad litem, as may be deemed necessary or desirable, for any party. The guardian ad litem shall be paid a reasonable fee set by the court and paid from the general fund of the county.

Sec. 144. Section 43-293, Reissue Revised Statutes of Nebraska, is amended to read:

43-293. When the parental rights have been terminated under section 43-292 and the care of the juvenile is awarded to the Department of Social Services Department of Health and Human Services, the department shall have authority to consent to the legal adoption of such juvenile and no other consent shall be required to authorize any court having jurisdiction to enter a legal decree of adoption of such juvenile. When the care of such juvenile is awarded to an individual or association and the parental rights have been terminated by the juvenile court, such individual or association may consent, only when authorized by order of such juvenile court, to the legal adoption of such juvenile and no other consent shall be required to authorize any court having jurisdiction to enter a legal decree of adoption of such juvenile. ~~7 except that the Department of Social Services, an individual, or an association to whom the care of a juvenile has been committed by a juvenile court prior to July 13, 1967, shall have authority to consent to the legal adoption of such juvenile, without an order terminating parental rights.~~ An order terminating the parent-juvenile relationship shall divest the parent and juvenile of all legal rights, privileges, duties, and obligations with respect to each other and the parents shall have no rights of inheritance with respect to such juvenile. The order terminating parental rights shall be final and may be appealed in the same manner as other final judgments of a juvenile court.

Sec. 145. Section 43-294, Reissue Revised Statutes of Nebraska, is amended to read:

43-294. The custodian appointed by a juvenile court shall have charge of the person of the juvenile and the right to make decisions affecting the person of the juvenile, including medical, dental, surgical, or psychiatric treatment, except that consent to a juvenile marrying or joining the armed forces of the United States may be given by a custodian, other than the Department of Social Services Department of Health and Human Services, with approval of the juvenile court, or by the department, as to juveniles in its custody, without further court authority. The authority of a custodian appointed by a juvenile court shall terminate when the individual under legal custody reaches nineteen years of age, is legally adopted, or the authority is terminated by order of the juvenile court. When an adoption has been granted by a court of competent jurisdiction as to any such juvenile, such fact shall be reported immediately by such custodian to the juvenile court. If the adoption is denied the jurisdiction over the juvenile shall immediately revert to the court which authorized placement of the juvenile for adoption. Any association or individual receiving the care or custody of any such juvenile shall be subject to visitation or inspection by the Department of Social

Services Department of Health and Human Services, or any probation officer of such court or any person appointed by the court for such purpose, and the court may at any time require from such association or person a report or reports containing such information or statements as the judge shall deem proper or necessary to be fully advised as to the care, maintenance, and moral and physical training of the juvenile, as well as the standing and ability of such association or individual to care for such juvenile. The custodian so appointed by the court shall have standing as a party in that case to file any pleading or motion, to be heard by the court with regard to such filings, and to be granted any review or relief requested in such filings consistent with Chapter 43, article 2.

Sec. 146. Section 43-296, Reissue Revised Statutes of Nebraska, is amended to read:

43-296. All associations receiving juveniles under the Nebraska Juvenile Code shall be subject to the same visitation, inspection, and supervision by the Department of Social Services Department of Health and Human Services as are public charitable institutions of this state, and it shall be the duty of the department to pass annually upon the fitness of every such association as may receive or desire to receive juveniles under the provisions of such code. Every such association shall annually, at such time as the department shall direct, make a report to the department showing its condition, management, and competency to adequately care for such juveniles as are or may be committed to it and such other facts as the department may require. Upon the department being satisfied that such association is competent and has adequate facilities to care for such juveniles, it shall issue to such association a certificate to that effect, which certificate shall continue in force for one year unless sooner revoked by the department. No juvenile shall be committed to any such association which has not received such a certificate within the fifteen months immediately preceding the commitment. The court may at any time require from any association receiving or desiring to receive juveniles under the provisions of the Nebraska Juvenile Code such reports, information, and statements as the judge shall deem proper and necessary for his or her action, and the court shall in no case be required to commit a juvenile to any association whose standing, conduct, or care of juveniles or ability to care for the same is not satisfactory to the court.

Sec. 147. Section 43-2,100, Reissue Revised Statutes of Nebraska, is amended to read:

43-2,100. The Department of Social Services Department of Health and Human Services may receive any juvenile for observation and treatment from any public institution other than a state institution or from any private or charitable institution or person having legal custody thereof upon such terms as such department may deem proper.

Sec. 148. Section 43-2,101, Reissue Revised Statutes of Nebraska, is amended to read:

43-2,101. Unless otherwise ordered by the court pursuant to section 43-290, each county shall bear all the expenses incident to the transportation of each juvenile from such county to the Department of Social Services Department of Health and Human Services, together with such fees and costs as are allowed by law in similar cases. The fees, costs, and expenses shall be paid from the county treasury upon itemized vouchers certified by the judge of the juvenile court.

Sec. 149. Section 43-2,106.01, Revised Statutes Supplement, 1994, is amended to read:

43-2,106.01. (1) Any final order or judgment entered by a juvenile court may be appealed to the Court of Appeals in the same manner as an appeal from district court to the Court of Appeals. The appellate court shall conduct its review within the same time and in the same manner prescribed by law for review of an order or judgment of the district court, except as provided in sections 43-287.01 to 43-287.06 and except that when appeal is taken from a finding by the juvenile court terminating parental rights, the cause shall be advanced for argument before the appellate court and the appellate court shall, in order to expedite the preferred disposition of the case and the juvenile, render the judgment and write its opinion, if any, as speedily as possible.

(2) An appeal may be taken by:

- (a) The juvenile;
- (b) The guardian ad litem;

(c) The juvenile's parent, custodian, or guardian. For purposes of this subdivision, custodian or guardian shall include, but not be limited to, the Department of Social Services Department of Health and Human Services, an association, or an individual to whose care the juvenile has been awarded



pursuant to the Nebraska Juvenile Code; or

(d) The county attorney or petitioner, except that in any case determining delinquency issues in which the juvenile has been placed legally in jeopardy, an appeal of such issues may only be taken by exception proceedings pursuant to sections 29-2317 to 29-2319.

(3) In all appeals from the county court sitting as a juvenile court, the judgment of the appellate court shall be certified without cost to the juvenile court for further proceedings consistent with the determination of the appellate court.

Sec. 150. Section 43-2,109, Revised Statutes Supplement, 1994, is amended to read:

43-2,109. In each county the judge presiding over the juvenile court may appoint a board of four reputable residents, who shall serve without compensation, to constitute a board of visitation whose duty it shall be to visit at least once a year all institutions, societies, and associations within the county receiving juveniles under the Nebraska Juvenile Code. Visits shall be made by not less than two of the members of the board, who shall go together or make a joint report. The board of visitors shall report to the court, from time to time, the condition of juveniles received by or in the charge of such associations and institutions and shall make an annual report to the ~~Department of Social Services, Office of Juvenile Services or Department of Correctional Services, and Department of Public Institutions~~ Department of Health and Human Services in such form as each of the ~~departments or the office the department~~ departments may prescribe. The county board may, in its discretion, make appropriations for the payment of the actual and necessary expenses incurred by the visitors in the discharge of their official duties.

Sec. 151. Section 43-503, Reissue Revised Statutes of Nebraska, is amended to read:

43-503. ~~The Department of Social Services~~ Department of Health and Human Services shall cooperate and coordinate its child and maternal welfare activities with those of state institutions, the vocational rehabilitation division of the State Department of Education, ~~Department of Health,~~ courts, county boards, charities and all other organizations, societies and agencies, state and national, to promote child welfare and health.

Sec. 152. Section 43-504.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-504.01. As a condition of eligibility for aid for children included in section 43-504, the partially or totally unemployed parent shall register with the Division of Employment, ~~of the Department of Labor,~~ nearest his or her residence and reregister at such intervals as such division requires, unless considered exempt under rules and regulations adopted and promulgated by the ~~Director of Social Services, Director of Health and Human Services,~~ and any totally or partially unemployed parent who refuses without good cause to accept employment in which he or she is able to engage which will increase his or her ability to maintain himself or herself and his or her family shall be deemed by such refusal to have rendered his or her children ineligible for further aid until he or she has complied with the provisions of this section.

The requirements of this section shall also apply to any dependent child unless he or she is under age sixteen or attending, full time, an elementary, secondary, or vocational school.

For purposes of this section, participation in a strike shall not constitute good cause to leave or to refuse to seek or accept employment. Aid to families with dependent children shall not be payable to a family for any month in which any eligible caretaker relative specified in section 43-504 with whom the child is living is, on the last day of such month, participating in a strike, and no individual's needs shall be included in determining the amount of aid payable for any month to a family if, on the last day of such month, such individual is participating in a strike. An individual shall not be deemed to be participating in a strike if it is shown to the satisfaction of the ~~Director of Social Services~~ Director of Health and Human Services that (1) he or she is not taking part in, financing, or directly interested in the labor dispute which led to the strike, and (2) he or she does not belong to a grade or class of workers of which, immediately before the commencement of the strike, there were members employed at the premises at which the strike occurs, any of whom are participating, financing, or directly interested in the dispute.

Sec. 153. Section 43-507, Reissue Revised Statutes of Nebraska, is amended to read:

43-507. The ~~Director of Social Services~~ Director of Health and Human Services, in behalf of mentally and physically handicapped children,

shall (1) obtain admission to state and other suitable schools, hospitals, or other institutions or care in their own homes or in family, free, or boarding homes for such children in accordance with the provisions of the existing law, (2) maintain medical supervision over such mentally or physically handicapped children, and (3) provide necessary medical or surgical care in a suitable hospital, sanitarium, preventorium, or other institution or in the child's own home or a home for any medically handicapped child needing such care and pay for such care from public funds, if necessary.

Sec. 154. Section 43-508, Reissue Revised Statutes of Nebraska, is amended to read:

43-508. The Director of Social Services Director of Health and Human Services shall cooperate with the state institutions for delinquent and mentally and physically handicapped children to ascertain the conditions of the home and the character and habits of the parents of a child, before his or her discharge from a state institution, and make recommendations as to the advisability of returning the child to his or her home. In case the director deems it unwise to have any such child returned to his or her former home, such state institution may, with the consent of the director, place such child into the care of the director.

Sec. 155. Section 43-511, Reissue Revised Statutes of Nebraska, is amended to read:

43-511. The Director of Social Services Director of Health and Human Services shall extend the assistance and services herein provided for to all children in rural districts throughout this state, in order that the same benefits and facilities shall be available to children in such districts as in urban areas.

Sec. 156. Section 43-512, Revised Statutes Supplement, 1995, is amended to read:

43-512. (1) Any dependent child as defined in section 43-504 or any relative of such a dependent child may file with the Department of Social Services Department of Health and Human Services a written application for financial assistance for such child on forms furnished by the department.

(2) The department, through its agents and employees, shall make such investigation pursuant to the application as it deems necessary or as may be required by the county attorney or authorized attorney. If the investigation or the application for financial assistance discloses that such child has a parent or stepparent who is able to contribute to the support of such child and has failed to do so, a copy of the finding of such investigation and a copy of the application shall immediately be filed with the county attorney or authorized attorney.

(3) The department shall make a finding as to whether the application referred to in subsection (1) of this section should be allowed or denied. If the department finds that the application should be allowed, the department shall further find the amount of monthly assistance which should be paid with reference to such dependent child. Except as may be otherwise provided, payments shall be made by state warrant, and the amount of payments shall not exceed three hundred dollars per month when there is but one dependent child and one eligible caretaker relative in any home, plus an additional seventy-five dollars per month on behalf of each additional eligible person. No payments shall be made for amounts totaling less than ten dollars per month except in the recovery of overpayments.

(4) The amount which shall be paid as assistance with respect to a dependent child shall be based in each case upon the conditions disclosed by the investigation made by the department. An appeal shall lie from the finding made in each case to the Director of Social Services Director of Health and Human Services. Such appeal may be taken by any taxpayer or by any relative of such child. Proceedings for and upon appeal shall be conducted in the same manner as provided for in section 68-1016.

(5)(a) For the purpose of preventing dependency, the director shall adopt and promulgate rules and regulations providing for services to former and potential recipients of aid to dependent children and medical assistance benefits. The director shall adopt and promulgate rules and regulations establishing programs and cooperating with programs of work incentive, work experience, job training, and education. The provisions of this section with regard to determination of need, amount of payment, maximum payment, and method of payment shall not be applicable to families or children included in such programs.

(b) If a recipient of aid to dependent children becomes ineligible for aid to dependent children as a result of increased hours of employment or increased income from employment after having participated in any of the programs established pursuant to subdivision (a) of this subsection, the recipient may be eligible for the following benefits, as provided in rules and

regulations of the department in accordance with sections 402, 417, and 1925 of the federal Social Security Act, as amended, Public Law 100-485, in order to help the family during the transition from public assistance to independence:

(i) An additional aid to dependent children payment in the amount of one-half of the previous month's aid to dependent children grant;

(ii) Except as provided in subdivision (1)(c) of section 68-1724, child care for up to twelve months following the month in which the recipient begins employment if such child care services are needed to assist in employment retention, subject to a sliding fee schedule if one is adopted by the department; and

(iii) Except as may be provided in accordance with subsection (2) of section 68-1713 and subdivision (1)(c) of section 68-1724, medical assistance for up to twelve months after the month the recipient becomes employed and is no longer eligible for aid to dependent children.

(6) For purposes of sections 43-512 to 43-512.10 and 43-512.12 to 43-512.18:

(a) Authorized attorney shall mean an attorney, employed by the county subject to the approval of the county board, employed by the department, or appointed by the court, who is authorized to investigate and prosecute child, spousal, and medical support cases. An authorized attorney shall represent the state as provided in section 43-512.03;

(b) Medical support shall include all expenses associated with the birth of a child and, if required pursuant to section 42-369 or 43-290, medical and hospital insurance coverage or membership in a health maintenance organization or preferred provider organization; and

(c) Spousal support shall be defined as provided in section 42-347. Sec. 157. Section 43-512.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.02. (1) Any child or any relative, lawful custodian, guardian, or next friend of a child may file with the county attorney, authorized attorney, or other office designated by the Department of Social Services Department of Health and Human Services Finance and Support an application for the same child, spousal, and medical support collection or paternity determination services as are provided to dependent children and their relatives under sections 43-512 to 43-512.10 by the department, the county attorney, the authorized attorney, and the clerk of the district court.

(2) If an office other than the office of the county attorney or authorized attorney is authorized by the department to accept such applications and if the application discloses that such child has a parent or stepparent who is able to contribute to the support of such child and has failed to do so, a copy of the application shall immediately be filed with the county attorney or authorized attorney.

(3)(a) The department shall determine an application fee to be charged to each individual who applies for services available in this section which shall not exceed the fee amount allowed by Title IV-D of the federal Social Security Act, as amended. The fee shall be collected from the individual or paid by the department on the individual's behalf. The county attorney or authorized attorney may recover the fee from the parent or stepparent who owes child, spousal, or medical support and reimburse the applicant. The governmental entity which is actually collecting the delinquent support payments shall collect the fee and send it to the department.

(b) The department may establish a schedule of amounts to be charged to recover any costs incurred in excess of any fees collected to cover administrative costs of providing the full scope of services required by state law. The department shall by regulation establish a schedule of amounts to be paid for such services based upon the actual costs incurred in providing such services. The schedule shall be made available to all applicants for such services. Any amount charged to recover costs may be collected from the parent or stepparent who owes child, spousal, or medical support or from the individual who has applied for enforcement services, either directly from such individual or from the child or spousal support collected, but only if the individual has been notified that the county attorney or authorized attorney will recover costs from an individual who receives enforcement services. The department shall not impose an application fee for services in any case in which the department is authorized to continue to collect and distribute support payments after a family ceases to receive aid to dependent children payments.

Sec. 158. Section 43-512.03, Revised Statutes Supplement, 1995, is amended to read:

43-512.03. (1) The county attorney or authorized attorney shall:

(a) On request by the Department of Social Services Department of Health and Human Services Finance and Support as described in subsection (2) of this section or when the investigation or application filed under section 43-512 or 43-512.02 justifies, file a petition against a nonsupporting parent or stepparent in the district, county, or separate juvenile court praying for an order for child or medical support in cases when there is no existing child or medical support order. After notice and hearing, the court shall adjudicate child and medical support liability of the nonsupporting parent or stepparent and enter an order accordingly;

(b) Enforce child, spousal, and medical support orders by an action for income withholding pursuant to the Income Withholding for Child Support Act;

(c) If income withholding is not feasible, enforce child, spousal, and medical support orders by other civil actions, citing the defendant for contempt, or filing a criminal complaint;

(d) Establish paternity and collect child and medical support on behalf of children born out of wedlock; and

(e) Carry out sections 43-512.12 to 43-512.18.

(2) The department may periodically review cases of individuals receiving enforcement services and make referrals to the county attorney or authorized attorney.

(3) In any action brought by or intervened in by a county attorney or authorized attorney under the Income Withholding for Child Support Act, the Uniform Interstate Family Support Act, or sections 42-347 to 42-379, 43-290, 43-512 to 43-512.10, 43-512.12 to 43-512.18, and 43-1401 to 43-1418, such attorneys shall represent the State of Nebraska.

(4) The State of Nebraska shall be a real party in interest in any action brought by or intervened in by a county attorney or authorized attorney for the purpose of establishing paternity or securing, modifying, suspending, or terminating child or medical support or in any action brought by or intervened in by a county attorney or authorized attorney to enforce an order for child, spousal, or medical support.

(5) Nothing in this section shall be construed to interpret representation by a county attorney or an authorized attorney as creating an attorney-client relationship between the county attorney or authorized attorney and any party or witness to the action, other than the State of Nebraska, regardless of the name in which the action is brought.

Sec. 159. Section 43-512.05, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.05. (1) It shall be the duty of the clerks of the district courts to furnish the Department of Social Services Department of Health and Human Services Finance and Support monthly statistical information and any other information required by the department to properly account for child, spousal, and medical support payments. The clerk of each district court shall negotiate and enter into a written agreement with the department in order to receive reimbursement for the costs incurred in carrying out sections 43-512 to 43-512.10 and 43-512.12 to 43-512.18.

(2) The department and the governing board of the county, county attorney, or authorized attorney may enter into a written agreement regarding the determination of paternity and child, spousal, and medical support enforcement for the purpose of implementing such sections. Paternity shall be established when it can be determined that the collection of child support is feasible.

(3) The department shall adopt and promulgate rules and regulations regarding the rate and manner of reimbursement for costs incurred in carrying out such sections, taking into account relevant federal law, available federal funds, and any appropriations made by the Legislature. Any reimbursement funds shall be added to the budgets of those county officials who have performed the services as called for in the cooperative agreements and carried over from year to year as required by law.

Sec. 160. Section 43-512.06, Revised Statutes Supplement, 1994, is amended to read:

43-512.06. (1) Notwithstanding any other provisions of law regarding confidentiality of records, every department and agency of state, county, and city government and every employer or other payor as defined in section 43-1709 shall assist and cooperate with the Department of Social Services Department of Health and Human Services Finance and Support in locating absent parents, determining an absent parent's income and health insurance information, and identifying an absent parent's employer only for the purposes of establishing and collecting child, spousal, and medical support and of conducting reviews under sections 43-512.12 to 43-512.18. Such information shall be used for no other purpose. An action may be filed in

district court to enforce this subsection.

(2) Notwithstanding any other provision of law regarding confidentiality of records, every public, private, or municipal utility shall, upon request, furnish to any county attorney, authorized attorney, or the Department of Social Services Department of Health and Human Services Finance and Support a subscriber's name, social security number, and mailing and residence addresses only for the purposes of establishing and collecting child, spousal, and medical support and of conducting reviews under sections 43-512.12 to 43-512.18. Such information shall be used for no other purpose. An action may be filed in district court to enforce this subsection. For purposes of this subsection, utility shall mean any entity providing electrical, gas, water, telephone, garbage disposal, or waste disposal service, including, but not limited to, any district or corporation organized under Chapter 70.

Sec. 161. Section 43-512.07, Revised Statutes Supplement, 1995, is amended to read:

43-512.07. (1) Any action, payment, aid, or assistance listed in subdivisions (a) through (c) of this subsection shall constitute an assignment by operation of law to the Department of Social Services Department of Health and Human Services Finance and Support of any right to spousal or medical support when ordered by the court and to child support whether or not ordered by the court which a recipient may have in his or her own behalf or on behalf of any other person for whom an applicant receives such payments, aid, or assistance, including any accrued arrearages as of the time of the assignment:

(a) Application for and acceptance of one or more aid to dependent children payments by a parent, another relative, or a custodian;

(b) Receipt of aid by or on behalf of any dependent child as defined in section 43-504; or

(c) Receipt of aid from child welfare funds.

The department shall be entitled to retain such child, spousal, or other support up to the amount of payments, aid, or assistance provided to a recipient. For purposes of this section, the right to receive current and past-due child support shall belong to the child and the assignment shall be effective as to any such support even if the recipient of the payments, aid, or assistance is not the same as the payee of court-ordered support.

(2) After notification of the clerk of the district court receiving the child, spousal, or other support payments made pursuant to a court order that the person for whom such support is ordered is a recipient of payments, aid, or assistance listed in subsection (1) of this section, the department shall also give notice to the payee named in the court order at his or her last-known address.

(3) Upon written or other notification from the department or from another state of such assignment of child, spousal, or other support payments, the clerk of the district court shall transmit the support payments received to the department or the other state without the requirement of a subsequent order by the court. The clerk of the district court shall continue to transmit the support payments for as long as the payments, aid, or assistance listed in subsection (1) of this section continues.

(4) Any court-ordered child, spousal, or other support remaining unpaid during the period of the assignment shall constitute a debt and a continuing assignment at the termination of payments, aid, or assistance listed in subsection (1) of this section, collectible by the department or other state as reimbursement for such payments, aid, or assistance. However, any assignment pursuant to subdivisions (1)(b) and (1)(c) of this section shall be limited to the amount of child support due for any months during which such payments, aid, or assistance was made. The continuing assignment shall only apply to support payments made during a calendar period which exceed the specific amount of support ordered for that period. When payments, aid, or assistance listed in subsection (1) of this section have ceased and upon notice by the department or the other state, the clerk of the district court shall continue to transmit to the department or the other state any support payments received on arrearages in excess of the amount of support ordered for that specific calendar period until notified by the department or the other state that the debt has been paid in full, except that any amount of support arrearages that has accrued or accrues after termination of payments, aid, or assistance listed in subsection (1) of this section shall be paid first by the clerk to the person to whom support is due before any reimbursement is made to the department or the other state.

Sec. 162. Section 43-512.11, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.11. The ~~Director of Social Services~~ Director of Health and Human Services shall report annually, not later than February 1 of each year,

to the Legislature regarding the effectiveness of programs established pursuant to subdivision (5)(a) of section 43-512. The report shall include, but not be limited to:

- (1) The number of program participants;
- (2) The number of program participants who become employed, whether such employment is full time or part time or subsidized or unsubsidized, and whether the employment was retained for at least thirty days;
- (3) Supportive services provided to participants in the program;
- (4) Grant reductions realized; and
- (5) A cost and benefit statement for the program.

Sec. 163. Section 43-512.12, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.12. Child support orders in cases in which a party has applied for services under Title IV-D of the federal Social Security Act, as amended, shall be reviewed by the Department of Social Services Department of Health and Human Services Finance and Support to determine whether to refer such orders to the county attorney or authorized attorney for filing of an application for modification. An order shall be reviewed by the department upon its own initiative or at the request of either parent when such review is required by Title IV-D of the federal Social Security Act, as amended. After review the department shall refer an order to a county attorney or authorized attorney when the verifiable financial information available to the department indicates:

- (1) The present child support obligation varies from the Supreme Court child support guidelines pursuant to section 42-364.16 by more than the percentage, amount, or other criteria established by Supreme Court rule, and the variation is due to financial circumstances which have lasted at least three months and can reasonably be expected to last for an additional six months; or
- (2) Health insurance is available to the obligor as provided in subsection (2) of section 42-369 and the children are not covered by health insurance other than the medical assistance program under sections 68-1018 to 68-1025.

An order shall not be reviewed by the department if it has not been three years since the present child support obligation was ordered. An order shall not be reviewed by the department more than once every three years, except that an order may be reviewed after one year if the department's determination after the previous review was not to refer to the county attorney or authorized attorney for filing of an application for modification because financial circumstances had not lasted or were not expected to last for the time periods established by subdivision (1) of this section.

Sec. 164. Section 43-512.13, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.13. (1) When review of a child support order pursuant to section 43-512.12 has been requested by one of the parents or initiated by the Department of Social Services Department of Health and Human Services Finance and Support, the department shall send notice of the pending review to each parent affected by the order at the parent's last-known mailing address thirty days before the review is conducted. Such review shall require the parties to submit financial information as provided in sections 43-512.14 and 43-512.17.

(2) After the department completes the review of the child support order in accordance with section 43-512.12, it shall send notice to each parent of the determination to refer or not refer the order to the county attorney or authorized attorney for filing of an application for modification of the order in the district court. Each parent shall be allowed thirty days to submit to the department a written request for a review of such determination. The parent requesting review shall submit the request in writing to the department, stating the reasons for the request and providing written evidence to support the request. The department shall review the available verifiable financial information and make a final determination whether or not to refer the order to the county attorney or authorized attorney for filing of an application for modification of the child support order. Written notice of such final determination shall be sent to each parent affected by the order at the parent's last-known mailing address. A final determination under this subsection shall not be considered a contested case for purposes of the Administrative Procedure Act.

Sec. 165. Section 43-512.14, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.14. Each parent requesting review shall provide the financial information as provided in section 43-512.17 to the Department of Social Services Department of Health and Human Services Finance and Support upon request of the department. The parent requesting review shall also

provide an affidavit regarding the financial circumstances of the nonrequesting parent upon the request of the department. Failure by a nonrequesting parent to provide adequate financial information shall create a rebuttable presumption that such parent's income has changed for purposes of section 43-512.12.

Referral of an order to a county attorney or authorized attorney under this section shall create a rebuttable presumption that there has been a material change in financial circumstances of one of the parents such that the child support obligation shall be increased at least ten percent if there is inadequate financial information regarding the noncustodial parent or that the child support obligation shall be decreased at least ten percent if there is inadequate financial information regarding the custodial parent. Such referral shall also be sufficient to rebut the presumption specified in section 42-364.16, and the court, after notice and an opportunity to be heard, may order a decrease or an increase of at least ten percent in the child support obligation as provided in this section.

Sec. 166. Section 43-512.15, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.15. (1) The county attorney or authorized attorney, upon referral from the Department of Social Services Department of Health and Human Services Finance and Support, shall file an application for modification of a child support order unless the attorney determines in the exercise of independent professional judgment that:

(a) The variation from the Supreme Court child support guidelines pursuant to section 42-364.16 is based on material misrepresentation of fact concerning any financial information submitted to the attorney;

(b) The variation from the guidelines is due to a voluntary reduction in net monthly income; or

(c) When the amount of the order is considered with all the other undisputed facts in the case, no variation from the criteria set forth in subdivisions (1) and (2) of section 43-512.12 exists.

(2) The application for modification of a child support order shall proceed in the original action establishing the support order, and the county attorney or authorized attorney shall represent the state in the proceedings.

(3) After an application for modification of a child support order is filed, any party may choose to be represented personally by private counsel. Any party who retains private counsel shall so notify the county attorney or authorized attorney in writing.

Sec. 167. Section 43-512.17, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.17. Any financial information provided to the Department of Social Services Department of Health and Human Services Finance and Support, the county attorney, or the authorized attorney by either parent for the purpose of facilitating a modification proceeding under sections 43-512.12 to 43-512.18 may be disclosed to the other parties to the case or to the district court. Financial information shall include the following:

(1) An affidavit of financial status provided by the party requesting review;

(2) An affidavit of financial status of the nonrequesting party provided by the nonrequesting party or by the requesting party at the request of the county attorney or authorized attorney;

(3) Supporting documentation such as state and federal income tax returns, paycheck stubs, W-2 forms, 1099 forms, bank statements, and other written evidence of financial status; and

(4) Information relating to health insurance as provided in subsection (2) of section 42-369.

Sec. 168. Section 43-515, Reissue Revised Statutes of Nebraska, is amended to read:

43-515. In each case the Director of Social Services Director of Health and Human Services shall make such investigation and reinvestigations as may be necessary to determine family circumstances and eligibility for assistance payments. Each applicant and recipient shall be notified in writing as to the approval or disapproval of any application, as to the amount of payments awarded, as to any change in the amount of payments awarded, and as to the discontinuance of payments.

Sec. 169. Section 43-522, Reissue Revised Statutes of Nebraska, is amended to read:

43-522. The Department of Social Services through the Director of Social Services Department of Health and Human Services through its director shall expend state assistance funds allocated for medically handicapped children to supplement other state, county, and municipal, benevolent, fraternal, and charitable expenditures, to extend and improve, especially in



rural areas and in areas suffering from severe economic distress, services for locating physically and medically handicapped children and for providing medical, surgical, correction, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are physically or medically handicapped or who are suffering from conditions which lead to medical handicaps. Expenditures and services shall be uniformly distributed so far as possible or practicable under conditions and circumstances which may be found to exist.

Sec. 170. Section 43-523, Reissue Revised Statutes of Nebraska, is amended to read:

43-523. ~~The Director of Social Services~~ Director of Health and Human Services shall make such reports to the Department of Health and Human Services of the United States in such form and containing such information as such department may from time to time require, and comply with such provisions as he ~~or she~~ may from time to time find necessary, to assure the correctness of such reports.

Sec. 171. Section 43-524, Reissue Revised Statutes of Nebraska, is amended to read:

43-524. ~~The Director of Social Services~~ Director of Health and Human Services shall cooperate with medical, health, nursing and welfare groups and organizations and with any agency in the state charged with providing for local rehabilitation of physically handicapped children.

Sec. 172. Section 43-525, Reissue Revised Statutes of Nebraska, is amended to read:

43-525. ~~The Department of Social Services through the Director of Social Services~~ Department of Health and Human Services through its director shall expend state assistance funds allocated for child welfare services in establishing, extending, and strengthening, especially in rural areas, child welfare services mentioned in sections 43-501 to 43-526, for which other funds are not specifically or sufficiently made available by ~~said~~ such sections or other laws of this state.

Sec. 173. Section 43-529, Reissue Revised Statutes of Nebraska, is amended to read:

43-529. (1) Payments with respect to any dependent child, including payments to meet the needs of the relative with whom such child is living, such relative's spouse, and the needs of any other individual living in the same home as such child and relative if such needs are taken into account in making the determination for eligibility of such child to receive aid to families with dependent children, may be made on behalf of such child, relative, and other person to either (a) another individual who, in accordance with standards set by the ~~Director of Social Services~~ Director of Health and Human Services, is interested in or concerned with the welfare of such child or relative, or (b) directly to a person or entity furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other person, or (c) both such individual and such person or entity.

(2) No such payments shall be made unless all of the following conditions are met: (a) The ~~Director of Social Services~~ director has determined that the relative of such child with respect to whom such payments are made has such inability to manage funds that making payments to him or her would be contrary to the welfare of the child and that it is therefore necessary to provide such aid with respect to such child and relative through payments described above to another interested individual, (b) the ~~Director of Social Services~~ director has made arrangements for undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such a manner as to protect the welfare of the family, and (c) the ~~Director of Social Services~~ director has approved a plan that provides for a periodic review to ascertain whether conditions justifying such payments still exist, with provision for termination of such payments if such conditions no longer exist and for judicial appointment of a guardian or conservator if it appears that the need for such special payments is continuing or is likely to continue beyond a period specified by the ~~Director of Social Services~~ director.

Sec. 174. Section 43-536, Revised Statutes Supplement, 1995, is amended to read:

43-536. In determining the rate of reimbursement for child care, the ~~Department of Social Services~~ Department of Health and Human Services Finance and Support shall conduct a market rate survey of the child care providers in the state. The department shall adjust the reimbursement rate for child care every second year beginning July 1, 1997, at a rate not less than the sixtieth percentile and not to exceed the seventy-fifth percentile of the current market rate survey.

Sec. 175. Section 43-701, Reissue Revised Statutes of Nebraska, is amended to read:

43-701. Except as otherwise provided in the Nebraska Indian Child Welfare Act, no person, other than a parent, shall (1) place, (2) assist in placing, (3) advertise a child for placement, or (4) give the care and custody of any child to any person or association for adoption or otherwise, except for temporary or casual care, unless such person shall be duly licensed by the ~~Department of Social Services~~ Department of Health and Human Services Regulation and Licensure under such rules and regulations as the department shall prescribe. The department may grant or revoke such a license and make all needful rules regarding the issuance or revocation thereof.

Sec. 176. Section 43-702, Reissue Revised Statutes of Nebraska, is amended to read:

43-702. Persons or courts charged with the care of dependent and delinquent children who place out or give the care and custody of any child to any person or association shall keep and preserve such records as may be prescribed by the ~~Department of Social Services~~ Department of Health and Human Services Regulation and Licensure. The records shall be reported to the department on the first day of each month and shall include the (1) full name and actual or apparent age of such child, (2) names and residence of the child's parents, so far as known, and (3) name and residence of the person or association with whom such child is placed. If such person or court subsequently removes the child from the custody of the person or association with whom the child was placed, the fact of the removal and disposition of the child shall be entered upon such record.

Sec. 177. Section 43-705, Reissue Revised Statutes of Nebraska, is amended to read:

43-705. The ~~Department of Social Services~~ Department of Health and Human Services or the Department of Health and Human Services Regulation and Licensure, or such person as it may authorize authorized by the departments, may visit any child so placed, who has not been legally adopted, with a view of ascertaining whether such child is being properly cared for and living under moral surroundings.

Sec. 178. Section 43-706, Reissue Revised Statutes of Nebraska, is amended to read:

43-706. Whenever the ~~Department of Social Services~~ Department of Health and Human Services has reason to believe that any person having the care or custody of a child placed out, and not legally adopted, is an improper person for such care or custody, or subjects such child to cruel treatment, or neglect, or immoral surroundings, it shall cause a complaint to be filed in the proper juvenile court.

Sec. 179. Section 43-707, Reissue Revised Statutes of Nebraska, is amended to read:

43-707. (1) The ~~Department of Social Services~~ Department of Health and Human Services and the ~~Department of Health and Human Services~~ Regulation and Licensure shall have the power and it shall be its duty:

(1) (a) To promote the enforcement of all laws for the protection and welfare of children born out of wedlock, mentally and physically handicapped children, and dependent, neglected, and delinquent children, except laws 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 when adequate provision therefor has not already been made;

(2) (b) To visit and inspect all public and private institutions, agencies, societies, or persons caring for, receiving, placing out, or handling children; and

(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 a license is refused or revoked, 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; and

(6) (c) To prescribe the form of reports required by law to be made to the ~~department~~ departments by public officers, agencies, and institutions.

(2) The ~~Department of Health and Human Services~~ Department of Health and Human Services shall have the power and duty:

(a) To exercise general supervision over the administration and

enforcement of all laws governing the placing out and adoption of children; and

(b) 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.

(3) The Department of Health and Human Services Regulation and Licensure shall have the power and duty 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 a license is refused or revoked, the refusal or revocation may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 180. Section 43-708, Reissue Revised Statutes of Nebraska, is amended to read:

43-708. No official, agent, or representative of either the Department of Social Services Department of Health and Human Services or the Department of Health and Human Services Regulation and Licensure shall, by virtue of sections 43-701 to 43-709, have any right to enter any home over the objection of the occupants thereof or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having the custody of such child. Nothing in sections 43-701 to 43-709 shall be construed as limiting the power of a parent or guardian to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purposes.

Sec. 181. Section 43-901, Reissue Revised Statutes of Nebraska, is amended to read:

43-901. The Nebraska Center for Children and Youth shall be located in, or adjacent to, Lincoln, Nebraska. The center shall be a part of the Department of Social Services Department of Health and Human Services.

Sec. 182. Section 43-902, Reissue Revised Statutes of Nebraska, is amended to read:

43-902. The Department of Social Services Department of Health and Human Services shall provide and keep in the Nebraska Center for Children and Youth a record of the names, residence, and ages of all children received, the residence, occupation, habits, and character of the parents, if living and known, the date of reception in the center, the date of placement agreement, and a social summary of the person or family with whom the child is placed. A continual record of each child shall be maintained until discharge of the ward from the center.

Sec. 183. Section 43-903, Reissue Revised Statutes of Nebraska, is amended to read:

43-903. Any court acting pursuant to the Nebraska Juvenile Code shall commit to the care of the Department of Social Services Department of Health and Human Services or any regularly organized and incorporated society or institution, for the purpose of caring for and placing in good family homes, all children, except those already committed to the care of responsible persons or institutions, who have been decreed to be children as described in subdivision (3)(a) of section 43-247 and who for that reason must be removed from the care of their parents or legal guardians.

Sec. 184. Section 43-904, Reissue Revised Statutes of Nebraska, is amended to read:

43-904. The Nebraska Center for Children and Youth may receive the children described in subdivision (3)(a) of section 43-247 who are under eighteen years of age and have been committed to the Department of Social Services Department of Health and Human Services by a juvenile court of this state. At the discretion of the Department of Social Services department, the center may receive for temporary care children under eighteen years of age that have not been committed to the center. In such cases, the department shall require the parents or guardians of the children to pay the cost of their care and maintenance. If the parent or guardian of the child is unable to pay such costs, the child shall not be received until the cost, or such portion thereof as the parent or guardian cannot pay, has been provided for by the county board of the county where the child resides. Children of any age who are residents of another state institution and are not capable of being helped by medical or surgical treatment shall be transferred to the Nebraska Center for Children and Youth at the discretion of the department. Children may be accepted for care at the Nebraska Center for Children and Youth when voluntarily relinquished by their parents or by the mother in the case of a child born out of wedlock.

Sec. 185. Section 43-905, Reissue Revised Statutes of Nebraska, is amended to read:

43-905. (1) The Department of Social Services Department of Health

and Human Services shall be the legal guardian of all children committed to it. The department shall afford temporary care and shall use special diligence to provide suitable homes for such children. The department is authorized to place such children in suitable families for adoption or, in the discretion of the department, on a written contract.

(2) The contract shall provide (a) for the children's education in the public schools or otherwise, (b) for teaching them some useful occupation, and (c) for kind and proper treatment as members of the family in which they are placed.

(3) Whenever any child who has been committed to the Nebraska Center for Children and Youth or the Department of Social Services Department of Health and Human Services becomes self-supporting, the director shall declare that fact and the guardianship of the department shall cease. Thereafter the child shall be entitled to his or her own earnings. Guardianship of and services by the Department of Social Services department shall never extend beyond the age of majority, except that services by the department to a child shall continue until the child reaches the age of twenty-one if the child is a student regularly attending a school, college, or university or regularly attending a course of vocational or technical training designed to prepare such child for gainful employment.

(4) Whenever the parents of any ward, whose parental rights have not been terminated, have become able to support and educate their child, the department shall restore the child to his or her parents if the home of such parents would be a suitable home. The guardianship of the department shall then cease.

(5) Whenever permanent free homes for the children cannot be obtained, the department shall have the authority to provide and pay for the maintenance of the children in private families, boarding homes, or institutions for care of children.

(6) The department Department of Health and Human Services Finance and Support shall provide and pay for liability and property damage insurance for participants in a family foster parent program who have been licensed or approved by the department to provide care or who have been licensed or approved by a legally established Indian tribal council operating within the state to provide care.

Sec. 186. Section 43-906, Revised Statutes Supplement, 1995, is amended to read:

43-906. Except as otherwise provided in the Nebraska Indian Child Welfare Act, the Department of Social Services Department of Health and Human Services, or its duly authorized agent, may consent to the adoption of children committed to it upon the order of a juvenile court if the parental rights of the parents or of the mother of a child born out of wedlock have been terminated and if no father of a child born out of wedlock has timely asserted his paternity rights under section 43-104.02, or upon the relinquishment to such department by their parents or the mother and, if required under sections 43-104.08 to 43-104.24, the father of a child born out of wedlock. The parental rights of parents of a child born out of wedlock shall be determined pursuant to sections 43-104.05 and 43-104.08 to 43-104.24.

Sec. 187. Section 43-907, Reissue Revised Statutes of Nebraska, is amended to read:

43-907. Unless a guardian shall have been appointed by a court of competent jurisdiction, the Director of Social Services, Director of Health and Human Services shall take custody of and exercise general control over assets owned by children under his or her charge. Children owning assets shall at all times pay for personal items. Assets over and above a maximum of one thousand dollars and current income shall be available for reimbursement to the state for the cost of care. Assets may be deposited in a checking account, invested in United States bonds, or deposited in a savings account insured by the United States Government. All income received from the investment or deposit of assets shall be credited to the individual child whose assets were invested or deposited. The Director of Social Services director shall make and maintain detailed records showing all receipts, investments, and expenditures of assets owned by children under his or her charge.

Sec. 188. Section 43-908, Reissue Revised Statutes of Nebraska, is amended to read:

43-908. An attempt shall be made by the Director of Social Services Director of Health and Human Services to locate children who arrive at the age of majority for the purpose of delivering and transferring to any such child such funds or property as he or she may own. In the event that such child cannot be located within five years after he the child arrives at the age of majority, any funds or assets owned by him or her shall be transferred to the

state treasury of the State of Nebraska.

Sec. 189. Section 43-909, Reissue Revised Statutes of Nebraska, is amended to read:

43-909. When in the best interests of a child who has been committed or relinquished to the Nebraska Center for Children and Youth it shall become necessary to transfer such child to another state institution, the Department of Social Services Department of Health and Human Services shall have no duty to make payments to such other state institution. This section shall not be construed so as to modify the responsibility of any county to pay for care of persons in state institutions.

Sec. 190. Section 43-910, Reissue Revised Statutes of Nebraska, is amended to read:

43-910. There is hereby created in the Department of Social Services Department of Health and Human Services a cash fund to be known as the Nebraska Center for Children and Youth Cash Fund. Such fund shall not exceed five hundred fifty dollars. The fund shall be used by the chief executive officer of the Nebraska Center for Children and Youth for emergency expenditures. The chief executive officer shall make an accounting of this fund to the Director of Social Services Director of Health and Human Services quarterly.

Sec. 191. Section 43-913, Reissue Revised Statutes of Nebraska, is amended to read:

43-913. The Department of Social Services Department of Health and Human Services, at the Nebraska Center for Children and Youth, may accept, under rules established by it, children for evaluation and planning in order to assist any juvenile court of this state in making a proper disposition of any child who has been adjudicated to be within the jurisdiction of the juvenile court. After the evaluation and planning is completed, the child shall be sent back to the court requesting the evaluation and planning for a final disposition order.

Sec. 192. Section 43-1005, Reissue Revised Statutes of Nebraska, is amended to read:

43-1005. The expense of returning juveniles to this state pursuant to the Interstate Compact on Juveniles shall be paid as follows:

(1) In the case of a runaway under Article IV, the court making the requisition shall inquire summarily regarding the financial ability of the petitioner to bear the expense and if it finds he or she is able to do so shall order that he or she pay all such expenses; otherwise the court shall arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile for his or her actual and necessary expenses; and the court may order that the petitioner reimburse the county for so much of said expense as the court finds he or she is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he or she may be proceeded against for contempt.

(2) In the case of an escapee or absconder under Article V or Article VI, if the juvenile is in the legal custody of the Department of Social Services Department of Health and Human Services it shall bear the expense of his or her return; otherwise the appropriate court shall, on petition of the person entitled to his or her custody or charged with his or her supervision, arrange for the transportation at the expense of the county and order that the county reimburse the person, if any, who returns the juvenile, for his or her actual and necessary expenses. In this subdivision appropriate court means the juvenile court which adjudged the juvenile to be delinquent or, if the juvenile is under supervision for another state under Article VII of the compact, then the juvenile court of the county of the juvenile's residence during such supervision.

(3) In the case of a voluntary return of a runaway without requisition under Article VI, the person entitled to his or her legal custody shall pay the expense of transportation and the actual and necessary expenses of the person, if any, who returns such juvenile; but if he or she is financially unable to pay all the expenses he or she may petition the juvenile court of the county of the petitioner's residence for an order arranging for the transportation as provided in subdivision (1) of this section. The court shall inquire summarily into the financial ability of the petitioner, and, if it finds he or she is unable to bear any or all of the expense, the court shall arrange for such transportation at the expense of the county and shall order the county to reimburse the person, if any, who returns the juvenile, for his or her actual and necessary expenses. The court may order that the petitioner reimburse the county for so much of said expense as the court finds he or she is able to pay. If the petitioner fails, without good cause, or refuses to pay such sum, he or she may be proceeded against for contempt.

Sec. 193. The Department of Health and Human Services is the

successor to the Department of Social Services for purposes of Article X of the Interstate Compact on the Placement of Children found in section 43-1101.

Sec. 194. Section 43-1301, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Local board shall mean a local foster care review board created pursuant to section 43-1304;

(2) State board shall mean the State Foster Care Review Board created pursuant to section 43-1302;

(3) Foster care facility shall mean any foster home, group home, child care facility, public agency, private agency, or any other person or entity receiving and caring for foster children;

(4) Foster care placements shall mean all placements of juveniles as described in subdivision (3)(b) of section 43-247, placements of neglected, dependent, or delinquent children, including those made directly by parents or by third parties, and placements of children who have been voluntarily relinquished pursuant to section 43-106.01 to the Department of Social Services Department of Health and Human Services or any child placement agency licensed by the department Department of Health and Human Services Regulation and Licensure;

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

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

(7) Family unit shall mean the social unit consisting of the foster child and the parent or parents or any person in the relationship of a parent, including a grandparent, and any siblings with whom the foster child legally resided prior to placement in foster care;

(8) Child-caring agency shall have the definition found in section 71-1902; and

(9) Child-placing agency shall have the definition found in section 71-1902.

Sec. 195. Section 43-1303, Reissue Revised Statutes of Nebraska, is amended to read:

43-1303. The state board shall meet at least twice per year. The state board shall establish a statewide register of all foster care placements occurring within the state, and there shall be a monthly report made to the state board registry of all foster care placements by any child-placing agency or court. For each child entering and leaving foster care, such monthly report shall consist of identifying information, placement information, and the plan developed by the person or court in charge of the child pursuant to section 43-1312. Every court and child-placing agency shall report any foster care placement within three working days. The state board shall review the activities of local boards and may adopt and promulgate its own rules and regulations. Such rules and regulations shall provide for the:

(1) Establishment of training programs for local board members which shall include an initial training program and periodic inservice training programs;

(2) Development of procedures for local boards;

(3) Establishment of a central record-keeping facility for all local board files, including individual case reviews;

(4) Accumulation of data and the making of annual reports on children in foster care. Such reports shall include (a) personal data on length of time in foster care, (b) number of placements, (c) frequency and results of court review, and (d) number of children supervised by the foster care programs in the state annually;

(5) To the extent not prohibited by section 43-1310, evaluation of the judicial and administrative data collected on foster care and the dissemination of such data to the judiciary, public and private agencies, the Department of Social Services Department of Health and Human Services, and members of the public; and

(6) Manner in which the state board shall determine the

appropriateness of requesting a review hearing as provided for in section 43-1313.

The state board, upon completion of a review of local board activities, shall report and make recommendations to the Department of Social Services department and county welfare offices. Such reports and recommendations shall include, but not be limited to, the annual judicial and administrative data collected on foster care pursuant to subdivision (4) of this section and the annual evaluation of such data. In addition the state board shall provide copies of such reports and recommendations to each court having the authority to make foster care placements. The state board may visit and observe foster care facilities in order to ascertain whether the individual physical, psychological, and sociological needs of each foster child are being met.

Sec. 196. Section 43-1304, Reissue Revised Statutes of Nebraska, is amended to read:

43-1304. The state board shall, within ninety days after July 17, 1987, establish local foster care review boards for the review of cases of children in foster care placement. The state board shall select members to serve on local boards from a list of applications submitted to the state board. Each local board shall consist of five members. The members of the board shall reasonably represent the various social, economic, racial, and ethnic groups of the county or counties from which its members may be appointed. A person employed by the state board, a child-caring agency, a child-placing agency, or a court shall not be appointed to a local board. A list of the members of each local board shall be sent to the Department of Social Services Department of Health and Human Services.

Sec. 197. Section 43-1309, Reissue Revised Statutes of Nebraska, is amended to read:

43-1309. Upon the request of the state board or the designated local board, any records pertaining to a case assigned to such board, or upon the request of the Department of Social Services Department of Health and Human Services, any records pertaining to a case assigned to the department, shall be furnished to the requesting board or department by the agency charged with the child or any public official or employee of a political subdivision having relevant contact with the child. Upon the request of the state board or designated local board, and if such information is not obtainable elsewhere, the court having jurisdiction of the foster child shall release such information to the state board or designated local board as the court deems necessary to determine the physical, psychological, and sociological circumstances of such foster child.

Sec. 198. Section 43-1310, Reissue Revised Statutes of Nebraska, is amended to read:

43-1310. All records and information regarding foster children and their parents or relatives in the possession of the state board or local board shall be deemed confidential. Unauthorized disclosure of such confidential records and information or any violation of the rules and regulations of the Department of Social Services Department of Health and Human Services or the state board shall be a Class III misdemeanor.

Sec. 199. Section 43-1319, Reissue Revised Statutes of Nebraska, is amended to read:

43-1319. Funds of the Department of Social Services Department of Health and Human Services shall be used to defray the reasonable expenses incurred in the recruitment, training, and recognition of foster care providers and volunteers, including expenses incurred for community forums, public information sessions, and similar administrative functions.

Sec. 200. Section 43-1320, Revised Statutes Supplement, 1994, is amended to read:

43-1320. (1) The Legislature finds and declares that foster parents are a valuable resource providing an important service to the citizens of Nebraska. The Legislature recognizes that the current insurance crisis has adversely affected some foster parents in several ways. Foster parents have been unable to obtain liability insurance coverage over and above homeowner's or tenant's coverage for actions filed against them by the foster child, the child's parents, or the child's legal guardian. In addition, the monthly payment made to foster parents is not sufficient to cover the cost of obtaining extended coverage and there is no mechanism in place by which foster parents can recapture the cost. Foster parents' personal resources are at risk, and therefore the Legislature desires to provide relief to address these problems.

(2) There is hereby created the Foster Parent Liability and Property Damage Fund. The fund shall be administered by the Department of Social Services Department of Health and Human Services Finance and Support and shall



be used to purchase any liability and property damage insurance policy provided by the ~~department~~ pursuant to subsection (6) of section 43-905 and reimburse foster parents for unreimbursed liability and property damage incurred or caused by a foster child as the result of acts covered by the insurance policy, ~~purchased by the department.~~ Claims for unreimbursed liability and property damage incurred or caused by a foster child may be submitted in the manner provided in the State Miscellaneous Claims Act. Each claim shall be limited to the amount of any deductible applicable to the insurance policy provided by the ~~Department of Social Services~~ pursuant to subsection (6) of section 43-905, and there may be a fifty-dollar deductible payable by the foster parent per claim. The ~~department~~ Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations to carry out this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 201. Section 43-1408.01, Revised Statutes Supplement, 1994, is amended to read:

43-1408.01. (1) During the period immediately before or after the in-hospital birth of a child whose mother was not married at the time of either conception or birth of the child or at any time between conception and birth of the child, the person in charge of such hospital or his or her designated representative shall provide to the child's mother and alleged father, if the alleged father is readily identifiable and available, the documents and written instructions for such mother and father to complete a notarized acknowledgment of paternity. Such acknowledgment, if signed by both parties and notarized, shall be filed with the ~~Department of Health~~ Department of Health and Human Services Finance and Support at the same time at which the certificate of live birth is filed.

Nothing in this section shall be deemed to require the person in charge of such hospital or his or her designee to seek out or otherwise locate an alleged father who is not readily identifiable or available.

(2) The acknowledgment shall be executed on a form prepared by the ~~Department of Health and developed in consultation with the Director of Social Services.~~ Department of Health and Human Services Finance and Support. Such form shall be in essentially the same form provided by the Bureau of Vital Statistics and used for obtaining signatures required by section 71-640.02. The acknowledgment shall include, but not be limited to, (a) a statement by the mother consenting to the acknowledgment of paternity and a statement that the alleged father is the biological father of the child, (b) a statement by the alleged father that he is the biological father of the child, (c) written information regarding parental rights and responsibilities, and (d) the social security numbers of the parents. A social security number shall not be required if no social security number has been issued to the parent or if the social security number is unknown. In addition to distribution required by this section, the form shall also be made available to the ~~Department of Social Services~~ Department of Health and Human Services for distribution.

(3) The form provided for in subsection (2) of this section shall also contain instructions for completion and filing with the ~~Department of Health~~ Department of Health and Human Services Finance and Support if it is not completed and filed with a birth certificate as provided in subsection (1) of this section.

(4) The ~~Department of Health~~ Department of Health and Human Services Finance and Support shall accept completed acknowledgment forms and make available to the ~~Department of Social Services,~~ county attorneys, or authorized attorneys a record of acknowledgments it has received, as provided in subsection (1) of section 71-612. The ~~Department of Health~~ Department of Health and Human Services Finance and Support may prepare photographic, electronic, or other reproductions of acknowledgments. Such reproductions, when certified and approved by the ~~Department of Health~~ Department of Health and Human Services Finance and Support, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as provided by rules and regulations of the ~~Department of Health~~ Department of Health and Human Services Finance and Support.

(5) The ~~Department of Social Services~~ may by regulation establish a nominal payment and procedure for payment by the department for each acknowledgment filed with the ~~Department of Health.~~ The amount of such payment and the entities receiving such payment shall be within the limits allowed by Title IV-D of the Social Security Act, as amended.

Sec. 202. Section 43-1704, Revised Statutes Supplement, 1994, is amended to read:

43-1704. Authorized attorney shall mean an attorney (1) employed by the county subject to the approval of the county board, (2) employed by the

Department of Social Services Department of Health and Human Services Finance and Support, or (3) appointed by the court, who is authorized to investigate and prosecute child, spousal, and medical support cases. An authorized attorney shall represent the state as provided in section 43-512.03.

Sec. 203. Section 43-1706, Reissue Revised Statutes of Nebraska, is amended to read:

43-1706. Department shall mean the Department of Social Services Department of Health and Human Services Finance and Support.

Sec. 204. Section 43-1718.02, Revised Statutes Supplement, 1994, is amended to read:

43-1718.02. (1) In any case in which services are not provided under Title IV-D of the federal Social Security Act, as amended, and a support order has been issued on or after July 1, 1994, the obligor's income shall be subject to income withholding regardless of whether or not payments pursuant to such order are in arrears, and the court shall require such income withholding in its order unless:

(a) One of the parties demonstrates and the court finds that there is good cause not to require immediate income withholding; or

(b) A written agreement between the parties providing an alternative arrangement is incorporated into the support order.

(2) If the court pursuant to subsection (1) of this section orders income withholding regardless of whether or not payments are in arrears, the obligor shall prepare a notice to withhold income. The notice to withhold income shall be substantially similar to a prototype prepared by the Department of Social Services Department of Health and Human Services Finance and Support and made available by the department to the State Court Administrator and the clerks of the district courts. The notice to withhold shall direct:

(a) That the employer or other payor shall withhold from the obligor's disposable income the amount stated in the notice to withhold for the purpose of satisfying the obligor's ongoing obligation for support payments as they become due and if there are arrearages, reducing such arrearages in child, spousal, or medical support payments arising from the obligor's failure to fully comply with a support order;

(b) That the employer or other payor shall pay to the obligor, on his or her regularly scheduled payday, such income then due which is not required to be withheld as stated on the notice or pursuant to any court order;

(c) That the employer or other payor shall not withhold more than the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount withheld to satisfy an arrearage of child, spousal, or medical support when added to the amount withheld to pay current support and the fee provided for in subdivision (2)(d) of this section shall not exceed such maximum amount;

(d) That the employer or other payor may assess an additional administrative fee from the obligor's disposable income not to exceed two dollars and fifty cents in any calendar month as compensation for the employer's or other payor's reasonable cost incurred in complying with the notice;

(e) That the employer or other payor shall remit, within ten days after the date the obligor is paid and in the manner specified in the notice, the income withheld, less the deduction allowed as an administrative fee by subdivision (2)(d) of this section, to the clerk of the district court designated in the notice and shall notify such clerk of the date such income was withheld;

(f) That the notice to withhold income shall terminate with respect to the employer or other payor without any court action or action by the obligor thirty days after the obligor ceases employment with or is no longer entitled to income from such employer or other payor;

(g) That the employer or other payor may combine amounts required to be withheld from the income of two or more obligors in a single payment to each clerk designated in a notice to withhold income if the portion of the single payment which is attributable to each individual obligor is separately identified;

(h) That an employer or other payor who fails to withhold and remit income of an obligor after receiving proper notice or who discriminates, demotes, disciplines, or terminates an employee or payee after receiving a notice to withhold income shall be subject to the penalties prescribed in subsections (4) and (5) of this section; and

(i) That if the employer or other payor receives more than one notice to withhold income of a single obligor and the amount of income

available to be withheld pursuant to the limits specified in subdivision (c) of this subsection is insufficient to satisfy the total support amount certified in the notices, the income available shall first be applied to current support. If the total amount of income available to be withheld is insufficient to satisfy the total amount of current support certified by the notices, the employer or other payor shall withhold for each notice the proportion that the amount of the current support certified in such notice bears to the total amount of current support certified in all notices received for the obligor. Any remaining income available to be withheld after current support is satisfied for all notices shall be applied to arrearages. If arrearages are certified in more than one notice, the employer or other payor shall withhold for each notice the proportion that the amount of the arrearage certified in such notice bears to the total amount of arrearage certified in all notices received for the obligor.

Compliance with the order by the employer or other payor shall operate as a discharge of the employer's or other payor's liability to the obligor as to the portion of the obligor's income withheld.

(3) The obligor shall deliver the notice to withhold income to his or her current employer or other payor and provide a copy of such notice to the clerk of the district court.

(4) Any employer or other payor who fails to withhold and remit any income of an obligor receiving income from the employer or other payor, after proper notice as provided in subsection (2) of this section, shall be required to pay to the clerk of the district court the amount specified in the notice.

(5) An employer or other payor shall not use an order or notice to withhold income or order or the possibility of income withholding as a basis for (a) discrimination in hiring, (b) demotion of an employee or payee, (c) disciplinary action against an employee or payee, or (d) termination of an employee or payee.

Upon application by the obligor and after a hearing on the matter, the court may impose a civil fine of up to five hundred dollars for each violation of this subsection.

An employer or other payor who violates this subsection shall be required to make full restitution to the aggrieved employee or payee, including reinstatement and backpay.

(6) When an obligor ceases employment with or is no longer entitled to income from an employer or other payor, the notice to withhold income shall not cease to operate against the obligor and income withholding shall continue to apply to any subsequent employment or income of the obligor. The notice to withhold income shall terminate with respect to the employer or other payor without any court action or action by the obligor thirty days after the obligor ceases employment with or is no longer entitled to income from such employer or other payor. A notice to withhold income shall also terminate when the child, spousal, or medical support obligation terminates and all past-due support has been paid, in which case the obligor shall notify the employer or other payor to cease withholding income.

(7) A notice to withhold income may be modified or revoked by a court of competent jurisdiction as a result of modification of the support order. A notice to withhold income may also be modified or revoked by a court of competent jurisdiction, for other good cause shown, after notice and a hearing on the issue.

(8) The obligee or obligor may file an action in district court to enforce this section.

(9) If after an order is issued in any case under this section the case becomes one in which services are provided under Title IV-D of the federal Social Security Act, as amended, the county attorney or authorized attorney or the Director of Social Services Director of Finance and Support shall implement income withholding as otherwise provided in the Income Withholding for Child Support Act.

Sec. 205. Section 43-1720, Revised Statutes Supplement, 1994, is amended to read:

43-1720. If the Director of Social Services Director of Finance and Support has previously sent a notice of assignment and opportunity for hearing on the same support order under section 48-647, the county attorney or authorized attorney shall certify the amount to be withheld from an obligor's disposable income pursuant to section 43-1722 and shall notify the obligor's employer or other payor pursuant to section 43-1723. If the director has not previously sent such notice, and except in cases in which the court has ordered income withholding pursuant to subsection (1) of section 43-1718.01 or 43-1718.02, upon receiving certification pursuant to section 42-358 or notice of delinquent payments of medical support, the county attorney or authorized attorney shall send a notice by certified mail to the last-known address of

the obligor stating:

(1) That an assignment of his or her income by means of income withholding will go into effect within fifteen days from the date the notice is sent;

(2) That the income withholding will continue to apply to any subsequent employer or other payor of the obligor;

(3) The amount of support the obligor owes;

(4) The amount of income that will be withheld; and

(5) That within the fifteen-day period, the obligor may request a hearing in the manner specified in the notice to contest a mistake of fact. For purposes of this subdivision, mistake of fact shall mean (a) an error in the amount of current or overdue support, (b) an error in the identity of the obligor, or (c) an error in the amount to be withheld as provided in section 43-1722.

Sec. 206. Section 43-1902, Reissue Revised Statutes of Nebraska, is amended to read:

43-1902. As used in sections 43-1901 to 43-1906, unless the context otherwise requires:

(1) Board shall mean the Nebraska Child Abuse Prevention Fund Board;

(2) Department shall mean the Department of Social Services Department of Health and Human Services;

(3) Director shall mean the Director of Social Services Director of Health and Human Services; and

(4) Fund shall mean the Nebraska Child Abuse Prevention Fund.

Sec. 207. Section 43-1903, Reissue Revised Statutes of Nebraska, is amended to read:

43-1903. (1) There is hereby created within the department the Nebraska Child Abuse Prevention Fund Board which shall be composed of nine members as follows: The Director of Social Services Director of Health and Human Services, the Director of Health Director of Regulation and Licensure, and seven members to be appointed by the Governor with the approval of the Legislature. The Governor shall appoint two members from each of the three congressional districts and one member from the state at large. As a group, the appointed board members (a) shall demonstrate knowledge in the area of child abuse and neglect prevention, (b) shall be representative of the demographic composition of this state, and (c) to the extent practicable, shall be representative of all of the following categories (i) the business community, (ii) the religious community, (iii) the legal community, (iv) professional providers of child abuse and neglect prevention services, and (v) volunteers in child abuse and neglect prevention services.

(2) The term of each appointed board member shall be three years, except that of the board members first appointed, two, including the at-large member, shall serve for three years, three shall serve for two years, and two shall serve for one year. The Governor shall designate the term which each of the members first appointed shall serve when he or she makes the appointments. An appointed board member shall not serve more than two consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The board shall elect a chairperson from among the appointed board members who shall serve for a term of two years. The board may elect the other officers and establish committees as it deems appropriate.

(4) The members of the board shall not receive any compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177 for state employees. The reimbursement shall be paid from the fund. In any one fiscal year, no more than five percent of the annually available funds as provided in section 43-1906 shall be used for the purpose of reimbursement of board members.

(5) Any board member may be removed by the Governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

Sec. 208. Section 43-2003, Reissue Revised Statutes of Nebraska, is amended to read:

43-2003. As used in the Missing Children Identification Act, unless the context otherwise requires:

(1) Bureau shall mean the Bureau of Vital Statistics, Department of Health of the Department of Health and Human Services Finance and Support;

(2) County agency shall mean any agency in a county that records and maintains birth certificates;

(3) Missing person shall mean a person sixteen years of age or younger reported to any law enforcement agency as abducted or lost; and

(4) Patrol shall mean the Nebraska State Patrol.

Sec. 209. Section 43-2411, Reissue Revised Statutes of Nebraska, is amended to read:

43-2411. (1) The Juvenile Services Grant Committee is hereby created. The committee shall be comprised of:

- (a) The probation administrator or his or her designee;
- (b) The State Court Administrator or his or her designee;
- (c) The Director of Correctional Services or his or her designee;
- (d) ~~The Director of Social Services~~ Director of Health and Human Services or his or her designee;
- (e) The Executive Director of the Nebraska Commission on Law Enforcement and Criminal Justice or his or her designee;
- (f) The Commissioner of Education or his or her designee;
- (g) The Executive Director of the Nebraska Association of County Officials or his or her designee;
- (h) The Executive Director of the Office of Child and Family Policy;
- (i) Three county judges, one to be selected from each congressional district by the Nebraska County Judges Association;
- (j) A member of the Juvenile Justice Advisory Committee to the Nebraska Commission on Law Enforcement and Criminal Justice to be selected by the Juvenile Justice Advisory Committee;
- (k) A separate juvenile court judge to be selected by the separate juvenile court judges of the State of Nebraska;
- (l) Three representatives of community mental health, one from each congressional district to be selected by the Nebraska Association of Community Mental Health Providers; and
- (m) Three county officials, one to be selected from each congressional district by the Nebraska Association of County Officials.

(2) The terms of members appointed pursuant to subdivisions (1)(i) through (1)(m) of this section shall be three years. Any vacancy on the committee shall be filled in the same manner in which the original appointment was made. Appointments to the committee shall be made within sixty days after July 10, 1990. The committee shall select a chairperson, a vice-chairperson, and such other officers as it deems necessary.

(3) Members of the committee shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

(4) The committee shall meet at least four times a year and at other times deemed necessary to perform its functions.

(5) The committee may appoint task forces to carry out its work. Task force members shall have knowledge of, responsibility for, or interest in an area related to the duties of the committee.

(6) The coordinator of the Juvenile Services Act established pursuant to section 43-2413 shall serve as staff to the committee.

Sec. 210. Section 43-2503, Reissue Revised Statutes of Nebraska, is amended to read:

43-2503. The purposes of the Early Intervention Act shall be to:

- (1) Develop and implement a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services for infants or toddlers with disabilities and their families through the collaboration of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, the Department of Health, the Department of Public Institutions, the Department of Social Services, the State Department of Education, and all other relevant agencies or organizations at the state, regional, and local levels;
- (2) Establish and implement a billing system for accessing federal medicaid funds;
- (3) Establish and implement services coordination through a community team approach;
- (4) Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources including public and private insurance coverage; and
- (5) Enhance Nebraska's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to eligible infants or toddlers with disabilities and their families.

Sec. 211. Section 43-2505, Reissue Revised Statutes of Nebraska, is amended to read:

43-2505. For purposes of the Early Intervention Act:

- (1) Collaborating agencies shall mean the Department of Health and Human Services ~~Department of Health, the Department of Public Institutions, the Department of Social Services,~~ and the State Department of Education;
- (2) Developmental delay shall mean any of the disability classifications or conditions described in section 79-3309;

(3) Early intervention services may include services which:  
 (a) Are designed to meet the developmental needs of each eligible infant or toddler with disabilities and the needs of the family related to enhancing the development of their infant or toddler;  
 (b) Are selected in collaboration with the parent or guardian;  
 (c) Are provided in accordance with an individualized family service plan;

(d) Meet all applicable federal and state standards; and  
 (e) Are provided, to the maximum extent appropriate, in natural environments including the home and community settings in which infants and toddlers without disabilities participate;

(4) Eligible infant or toddler with disabilities shall mean a child who needs early intervention services and is two years of age or younger, except that toddlers who reach age three during the school year shall remain eligible throughout that school year. The need for early intervention services is established when the infant or toddler experiences developmental delays which shall mean any of the disability classifications or conditions described in the Special Education Act;

(5) Federal early intervention program shall mean the federal early intervention program for infants and toddlers with disabilities, 20 U.S.C. 1471 to 1485;

(6) Individualized family service plan shall mean the process, periodically documented in writing, of determining appropriate early intervention services for an eligible infant or toddler with disabilities and his or her family;

(7) Interagency planning team shall mean an organized group of interdisciplinary, interagency representatives, community leaders, and family members in each local community or region;

(8) Lead agency or agencies shall mean the Department of Social Services Department of Health and Human Services and State Department of Education and any other agencies designated by the Governor for general administration, supervision, and monitoring of programs and activities receiving federal funds under the federal early intervention program and state funds appropriated for early intervention services under the Early Intervention Act;

(9) Nebraska Interagency Coordinating Council shall mean the state council the function of which is to advise and assist the collaborating agencies in carrying out the provisions of the act. The members of the council shall be appointed by the Governor and shall include, but not be limited to, representatives of school districts, social services, health and medical services, parents, mental health services, developmental disabilities services, educational service units, Head Start, higher education, physicians, the Legislature, and the collaborating agencies; and

(10) Services coordination shall mean a flexible process of interaction facilitated by a services coordinator to assist the family of an eligible infant or toddler with disabilities within a community to identify and meet their needs pursuant to the Early Intervention Act. Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from other sources.

Sec. 212. Section 43-2507, Reissue Revised Statutes of Nebraska, is amended to read:

43-2507. (1) Planning for early intervention services shall be the responsibility of each collaborating agency. The planning shall address a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services to all eligible infants or toddlers with disabilities and their families in Nebraska. The statewide system shall include the following minimum components:

(a) A public awareness program, including a central directory;  
 (b) A comprehensive early identification system, including a system for identifying children and making referrals for infants or toddlers who may be eligible for early intervention services;

(c) Common intake, referral, and assessment processes, procedures, and forms to determine eligibility of infants and toddlers and their families referred for early intervention services;

(d) An individualized family service plan, including services coordination, for each eligible infant or toddler with disabilities and his or her family;

(e) A comprehensive system of personnel development;  
 (f) A uniform computer data base and reporting system which crosses agency lines; and

(g) Services coordination to access the following early intervention

services: Audiology; family training, counseling, and home visits; health services; medical services only for diagnostic or evaluation purposes; nursing services; nutrition services; occupational therapy; physical therapy; psychological services; social work services; special instruction; speech-language pathology; transportation and related costs that are necessary to enable an eligible infant or toddler with disabilities and his or her family to receive early intervention services; assistive technology devices and assistive technology services; vision services; and hearing services.

(2) Collaborating agencies shall review standards to ensure that personnel are appropriately and adequately prepared and trained to carry out the Early Intervention Act.

(3) Collaborating agencies shall be responsible for designing, supporting, and implementing a statewide training and technical assistance plan which shall address preservice, inservice, and leadership development for service providers and parents of eligible infants and toddlers with disabilities.

(4) Policies and procedures shall be jointly examined and analyzed by the collaborating agencies to satisfy data collection requirements under the federal early intervention program and to assure the confidentiality of the data contained in the statewide system. Notwithstanding any other provision of state law, the collaborating agencies shall be permitted to share information and data necessary to carry out the provisions of the federal early intervention program, including the personal identification or other specific information concerning individual infants, toddlers, or their families, except that the vital and medical records and health information concerning individuals provided to the Department of Health Department of Health and Human Services may be released only under the laws authorizing the provision of such records and information. Nothing in this section shall prohibit the use of such data to provide for the preparation of reports, fiscal information, or other documents required by the Early Intervention Act, but no information in such reports, fiscal information, or other documents shall be used in a manner which would allow for the personal identification of an individual infant, toddler, or family.

Sec. 213. Section 43-2508, Reissue Revised Statutes of Nebraska, is amended to read:

43-2508. (1) The Department of Social Services Department of Health and Human Services shall be responsible for providing or contracting for services.

(2) Whenever possible, the medical assistance program prescribed in sections 68-1018 to 68-1025 shall be used for payment of services coordination.

(3) It is the intent of this section that the Department of Social Services Department of Health and Human Services Finance and Support shall apply for and implement a Title XIX medicaid waiver as a way to assist in the provision of services coordination to eligible infants or toddlers with disabilities and their families.

Sec. 214. Section 43-2509, Reissue Revised Statutes of Nebraska, is amended to read:

43-2509. The Department of Health Department of Health and Human Services shall be responsible for incorporating components required under the federal early intervention program into the state plans developed for the Special Supplemental Food Program for Women, Infants, and Children, the Commodity Supplemental Food Program, the maternal and child health program, and the developmental disabilities program. The department shall provide technical assistance, planning, and coordination related to the incorporation of such components.

Sec. 215. Section 43-2510, Reissue Revised Statutes of Nebraska, is amended to read:

43-2510. The Department of Public Institutions Department of Health and Human Services shall be responsible for incorporating components required under the federal early intervention program into the mental health and developmental disabilities planning responsibilities of the department. The department shall provide technical assistance, planning, and coordination related to the incorporation of such components.

Sec. 216. Section 43-2511, Reissue Revised Statutes of Nebraska, is amended to read:

43-2511. There is hereby established a statewide billing system for accessing federal medicaid funds for special education and related services provided by school districts. The system shall apply to all students verified with disabilities from date of diagnosis to twenty-one years of age as allowed under the federal Medicare Catastrophic Coverage Act of 1988. The system shall be developed jointly by the Department of Social Services Department of



Health and Human Services, the Department of Health and Human Services Finance and Support, and the State Department of Education. School districts, educational service units, or approved cooperatives providing special education and related services shall be required to participate in the statewide billing system. It is the intent of this section that costs to school districts associated with the implementation of such a system shall be eligible for payment through the medicaid reimbursement rates to be established for each therapy.

Sec. 217. Section 43-2512, Reissue Revised Statutes of Nebraska, is amended to read:

43-2512. Each region established pursuant to section 79-3328 shall establish an interagency planning team, which planning team shall include representatives from school districts, social services, health and medical services, parents, and mental health, developmental disabilities, Head Start, and other relevant agencies or persons serving children from birth to age five and their families and parents or guardians. Each interagency planning team shall be responsible for assisting in the planning and implementation of the Early Intervention Act in each local community or region. The Department of Social Services Department of Health and Human Services, in collaboration with each regional interagency planning team, shall provide or contract for services coordination.

Sec. 218. Section 43-2515, Reissue Revised Statutes of Nebraska, is amended to read:

43-2515. On or before October 1, 1993, and for each year thereafter, the Department of Social Services Department of Health and Human Services Finance and Support and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to school districts pursuant to the Early Intervention Act for special education services for children age five and older. The General Fund appropriation to the State Department of Education, Program 440, for state special education aid shall be decreased by an amount equal to the amount that would have been reimbursed with state general funds to the school districts through the special education reimbursement process for special education services for children age five and older that was paid to school districts or approved cooperatives with federal medicaid funds.

It is the intent of the Legislature that an amount equal to the amount that would have been reimbursed with state general funds to the school districts, certified to the budget administrator, be appropriated from the General Fund to the Department of Social Services; Programs 341 and 348, to aid in carrying out the provisions of the Early Intervention Act and other related early intervention services.

Sec. 219. Section 43-2606, Revised Statutes Supplement, 1995, is amended to read:

43-2606. (1) The Department of Social Services Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations for mandatory training requirements for providers of child care and school-age-care programs. Such requirements shall include preservice orientation and at least four hours of annual inservice training.

(2) The department shall initiate a system of documenting the training levels of staff in specific child care settings to assist parents in selecting optimal care settings.

(3) The training requirements shall be designed to meet the health, safety, and developmental needs of children and shall be tailored to the needs of licensed providers of child care programs.

(4) The department shall provide or arrange for training opportunities throughout the state and shall provide information regarding training opportunities to all providers of child care programs at the time of registration or licensure or when renewing a registration or license.

Sec. 220. Section 43-2608, Revised Statutes Supplement, 1995, is amended to read:

43-2608. The Department of Social Services Department of Health and Human Services Regulation and Licensure shall establish a statewide toll-free hotline to provide immediate responses to the needs of providers of programs. Such hotline may be operated by the department, or the department may contract with a state agency or with any other public or private entity capable of providing such service to operate the hotline.

Sec. 221. Section 43-2609, Revised Statutes Supplement, 1995, is amended to read:

43-2609. (1) The Legislature finds that a system of voluntary registration would provide a mechanism for participation in the food programs offered by the United States Department of Agriculture, for eligibility to

receive funds under the federal Child Care Subsidy program, for support and assistance to unlicensed family child care home providers, and for voluntary participation in training.

(2) The ~~Department of Social Services~~ Department of Health and Human Services Regulation and Licensure shall institute a system of voluntary registration for family child care homes not required to be licensed under section 71-1911. The department shall promulgate standards for such voluntary registration. The department shall not make payments for child care, from any state or federal funds, to any family child care home provider not voluntarily registered under this section.

(3) The department shall issue a certificate of registration to any family child care home provider registered pursuant to this section.

(4) For purposes of implementing voluntary registration, the department may contract with family child care home associations or full-service community-based agencies to carry out such voluntary registration procedures for the department.

Sec. 222. Section 43-2610, Revised Statutes Supplement, 1995, is amended to read:

43-2610. (1) There is hereby established the Family Child Care Rules and Regulations Advisory Committee to advise the ~~Department of Social Services~~ Department of Health and Human Services Regulation and Licensure on all aspects of the rules and regulations concerning family child care homes licensed by the department. The advisory committee shall be comprised of at least ten members, seven of whom shall be family child care home providers and three of whom shall be parents. Two providers shall be appointed from each congressional district, and one provider shall be appointed at large. One parent shall be appointed from each congressional district. The members of the advisory committee shall be appointed by the ~~Director of Social Services~~ Director of Regulation and Licensure.

(2) The initial members of the advisory committee shall be appointed for staggered terms of one, two, and three years so that no more than one-third, rounded to the next higher whole number, of the members of the committee shall turn over in any given year. Following initial appointments to the advisory committee, appointments shall be for terms of three years. No member shall serve more than two terms on the committee. Members shall be reimbursed for their actual and necessary expenses, including child care, as provided in sections 81-1174 to 81-1177.

(3) The advisory committee shall meet at least twice a year but may meet more often at the request of the director or a majority of the committee members. Meetings shall be scheduled on a rotating basis so that a meeting is held in each congressional district.

Sec. 223. Section 43-2611, Revised Statutes Supplement, 1995, is amended to read:

43-2611. There is hereby established the Child Care and Early Childhood Education Coordinating Committee to provide coordination and communication between state agencies responsible for child care and early childhood education services. The coordinating committee shall be composed of at least sixteen members, at least five of whom shall be residents of the third congressional district. The members shall include:

(1) One representative each from the Nebraska Commission on the Status of Women, the Department of Economic Development, the ~~Department of Social Services~~ Department of Health and Human Services Regulation and Licensure, and the State Department of Education;

(2) At least one representative of family child care home providers and one representative of child care center providers;

(3) At least one specialist in working with young children with disabilities;

(4) At least one early childhood development expert;

(5) At least one representative of school districts involved in the provision of before-and-after-school services or preschool programs;

(6) At least one parenting education specialist;

(7) At least one representative of resource and referral programs;

(8) One pediatrician or other pediatric health care professional;

(9) At least one representative of a college, community college, or university that provides child care to its students or employees;

(10) At least one representative of a citizens group or other group concerned with child care;

(11) At least one representative of a labor organization;

(12) At least one representative of a Head Start agency;

(13) At least one employer who provides child care assistance to employees; and

(14) Parents of children receiving or in need of child care.

The commission and departments shall select their representatives to the coordinating committee. The Governor shall appoint the remaining members considering recommendations submitted by professional associations and other groups interested in child care and early childhood education services. The Governor shall appoint the chairperson of the coordinating committee. The chairperson shall not be from the Department of Social Services Department of Health and Human Services Regulation and Licensure or from the State Department of Education.

The executive committee of the coordinating committee shall consist of the chairperson of the coordinating committee, the representatives of the Department of Social Services Department of Health and Human Services Regulation and Licensure and the State Department of Education, and the chairpersons of any standing subcommittees established by the coordinating committee.

Sec. 224. Section 43-2612, Revised Statutes Supplement, 1995, is amended to read:

43-2612. The Department of Social Services Department of Health and Human Services Regulation and Licensure shall provide administrative support for the Child Care and Early Childhood Education Coordinating Committee. Staff support for the coordinating committee shall be provided by the State Department of Education and the Department of Social Services Department of Health and Human Services Regulation and Licensure on a cooperative basis. Staff from other state agencies involved in child care and early childhood education shall be utilized and provided as appropriate.

Sec. 225. Section 43-2613, Revised Statutes Supplement, 1995, is amended to read:

43-2613. The initial members of the Child Care and Early Childhood Education Coordinating Committee shall be appointed for staggered terms of one, two, and three years so that no more than one-third, rounded to the next higher whole number, of the appointed members shall turn over in any given year. Following initial appointments to the coordinating committee, appointments shall be for terms of three years. Members shall be reimbursed by the Department of Social Services Department of Health and Human Services Regulation and Licensure for their actual and necessary expenses, including child care, as provided in sections 81-1174 to 81-1177.

Sec. 226. Section 43-2615, Revised Statutes Supplement, 1995, is amended to read:

43-2615. To the extent possible, the Child Care and Early Childhood Education Coordinating Committee shall:

(1) Serve as an advisory coordinator for all state agencies responsible for child care programs and early childhood education for the purpose of improving communication and interagency coordination. The coordinating committee shall annually review state programs and make recommendations to the agencies and the Legislature which will maximize funding and promote the policies set forth in the Quality Child Care Act;

(2) Review and propose changes to the federal Child Care Subsidy program, including the adequacy of the sliding fee schedule;

(3) Review administration of any child care expansion grant program;

(4) Review and provide input toward the improvement of the quantity and quality of child care in the state, including advice to state agencies in their implementation of existing federal law and regulations as well as planning for future available federal funding;

(5) Review rules and regulations or proposed revisions to existing rules and regulations governing the registration or licensing of programs;

(6) Advise the Director of Social Services Director of Regulation and Licensure on the administration of the licensing responsibilities of the Department of Social Services Department of Health and Human Services Regulation and Licensure related to section 71-1910;

(7) Make recommendations to the Director of Social Services Department of Health and Human Services Regulation and Licensure, the State Board of Education, the State Department of Education, and all other state agencies involved in the regulation or provision of child care programs and early childhood education on the needs, priorities, programs, and policies relating to child care and early childhood education throughout the state;

(8) Study and recommend additional resources for child care programs and early childhood education;

(9) Review and provide advice concerning the availability of employment-related child care;

(10) Advise the Department of Social Services Department of Health and Human Services Regulation and Licensure as to whether separate standards are needed for before-and-after-school child care programs;

(11) Report annually to the Governor and Legislature on the status

of child care and early childhood education, including information about licensed programs, Head Start, programs administered by the State Department of Education, early childhood education staff training, state accreditation, program compliance with immunization reporting requirements pursuant to section 71-1913.01, and the information required pursuant to section 71-1917. The report shall contain the following data from the child care complaint tracking system: Complaints by license type; allegations and substantiations by licensing rule and by county; and negative licensing actions by the Department of Social Services Department of Health and Human Services Regulation and Licensure, including suspensions, probationary licenses issued, revocations, denials, and emergency orders. The report shall include such findings and recommendations as are needed for the improvement of child care programs and early childhood education in the State of Nebraska; and

(12) Make recommendations as to the need for separate licensing requirements for programs providing child care for children who are medically fragile or technologically dependent and, if such a need is determined, make recommendations as to what the standards shall be.

Before making recommendations as outlined by this section, the coordinating committee shall hold public hearings and invite suggestions from parents of children utilizing child care, from providers of such programs, and from other interested parties. At least one public hearing shall be held in the third congressional district.

Sec. 227. Section 43-2616, Revised Statutes Supplement, 1995, is amended to read:

43-2616. Notwithstanding any other provision of law, including section 71-1914, family child care homes licensed by the Department of Social Services Department of Health and Human Services Regulation and Licensure pursuant to section 71-1911 or by a city, village, or county pursuant to subsection (2) of section 71-1914 may be established and operated in any residential zone within the exercised zoning jurisdiction of any city or village.

Sec. 228. Section 43-2617, Revised Statutes Supplement, 1995, is amended to read:

43-2617. A provider of a program shall notify the parents of enrolled children of the outbreak of any communicable disease in any child in the program on the same day the provider is informed of or observes the outbreak. The Department of Social Services Department of Health and Human Services Regulation and Licensure in consultation with the Department of Health Department of Health and Human Services shall develop appropriate procedures to carry out this section.

Sec. 229. Section 43-2620, Revised Statutes Supplement, 1995, is amended to read:

43-2620. The Department of Social Services Department of Health and Human Services Regulation and Licensure and the State Department of Education shall collaborate in their activities and may:

(1) Encourage the development of comprehensive systems of child care programs and early childhood education programs which promote the wholesome growth and educational development of children, regardless of the child's level of ability;

(2) Encourage and promote the provision of parenting education, developmentally appropriate activities, and primary prevention services by program providers;

(3) Facilitate cooperation between the private and public sectors in order to promote the expansion of child care;

(4) Promote continuing study of the need for child care and early childhood education and the most effective methods by which these needs can be served through governmental and private programs;

(5) Coordinate activities with other state agencies serving children and families;

(6) Strive to make the state a model employer by encouraging the state to offer a variety of child care benefit options to its employees;

(7) Provide training for child care providers as authorized in sections 79-3701 to 79-3703;

(8) Develop and support resource and referral services for parents and providers that will be in place statewide by January 1, 1994;

(9) Promote the involvement of businesses and communities in the development of child care throughout the state by providing technical assistance to providers and potential providers of child care;

(10) Establish a voluntary accreditation process for public and private child care and early childhood education providers, which process promotes program quality;

(11) Provide and coordinate staff assistance to the Child Care and

Early Childhood Education Coordinating Committee;

(12) At least biennially, develop an inventory of programs and early childhood education programs provided to children in Nebraska and identify the number of children receiving and not receiving such services, the types of programs under which the services are received, and the reasons children not receiving the services are not being served; and

(13) Support the identification and recruitment of persons to provide child care for children with special needs.

Sec. 230. Section 43-2622, Revised Statutes Supplement, 1994, is amended to read:

43-2622. The Child Care Grant Fund is hereby established to be administered by the Department of Social Services Department of Health and Human Services Regulation and Licensure. The fund shall be used to make grants pursuant to section 43-2624. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 231. Section 43-2624, Revised Statutes Supplement, 1995, is amended to read:

43-2624. The Department of Social Services Department of Health and Human Services Regulation and Licensure shall award grants to persons, community-based organizations, or schools needing assistance to start or improve a child care program. No grant shall exceed ten thousand dollars. A recipient of a grant shall not be eligible for a grant more than once in a three-year period. Child care grants shall be awarded on the basis of need for the proposed services in the community. Grants shall be given only to grantees who do not discriminate against children with disabilities or children whose care is funded by any state or federal funds. When considering grant applications of equal merit, the department shall award the grant to the applicant which has not previously received a grant from the Child Care Grant Fund.

Sec. 232. Section 43-2625, Reissue Revised Statutes of Nebraska, is amended to read:

43-2625. The Department of Social Services Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations setting forth criteria, application procedures, and methods to assure compliance with the criteria for grants to be awarded pursuant to section 43-2624.

Sec. 233. Section 43-3001, Revised Statutes Supplement, 1994, is amended to read:

43-3001. (1) Notwithstanding any other provision of law regarding the confidentiality of records and when not prohibited by the federal Privacy Act of 1974, as amended, juvenile court records and any other pertinent information that may be in the possession of school districts, county attorneys, law enforcement agencies, state probation personnel, state parole personnel, youth detention facilities, medical personnel, treatment or placement programs, the Department of Social Services Department of Health and Human Services, the Office of Juvenile Services, the Department of Correctional Services, the State Foster Care Review Board, child abuse and neglect investigation teams, child abuse and neglect treatment teams, or other multidisciplinary teams for abuse, neglect, or delinquency concerning a child who is in the custody of the state may be shared with individuals and agencies who have been identified in a court order authorized by this section.

(2) In any judicial proceeding concerning a child who is currently, or who may become at the conclusion of the proceeding, a ward of the court or state or under the supervision of the court, an order may be issued which identifies individuals and agencies who shall be allowed to receive otherwise confidential information concerning the juvenile for legitimate and official purposes. The individuals and agencies who may be identified in the court order are the child's attorney or guardian ad litem, the parents' attorney, foster parents, appropriate school personnel, county attorneys, authorized court personnel, law enforcement agencies, state probation personnel, state parole personnel, youth detention facilities, medical personnel, treatment or placement programs, the Department of Social Services Department of Health and Human Services, the Office of Juvenile Services, the Department of Correctional Services, the State Foster Care Review Board, child abuse and neglect investigation teams, child abuse and neglect treatment teams, and other multidisciplinary teams for abuse, neglect, or delinquency. Unless the order otherwise states, the order shall be effective until the child leaves the custody of the state or until a new order is issued.

(3) All information acquired by an individual or agency pursuant to this section shall be confidential and shall not be disclosed except to other persons who have a legitimate and official interest in the information and are

identified in the court order issued pursuant to this section with respect to the child in question. A person who receives such information or who cooperates in good faith with other individuals and agencies identified in the appropriate court order by providing information or records about a child shall be immune from any civil or criminal liability. The provisions of this section granting immunity from liability shall not be extended to any person alleged to have committed an act of child abuse or neglect.

(4) Any person who publicly discloses information received pursuant to this section shall be guilty of a Class III misdemeanor.

Sec. 234. Section 44-3,144, Revised Statutes Supplement, 1994, is amended to read:

44-3,144. For purposes of sections 44-3,144 to 44-3,150:

(1) Department shall mean the Department of Social Services Department of Health and Human Services Finance and Support;

(2) Insurer shall mean an entity offering a group health plan as defined in 29 U.S.C. 1167, a health maintenance organization, an entity offering a service benefit plan, and an insurer as defined in section 44-103; and

(3) Medical assistance program shall mean the program established pursuant to sections 68-1018 to 68-1025.

Sec. 235. Section 44-526, Revised Statutes Supplement, 1994, is amended to read:

44-526. For purposes of the Standardized Health Claim Form Act:

(1) Ambulatory surgical facility shall mean a facility, not a part of a hospital, which provides surgical treatment to patients not requiring hospitalization and which is licensed as a health clinic as defined by section 71-2017.01 but shall not include the offices of private physicians or dentists whether for individual or group practice;

(2) Health care shall mean any treatment, procedure, or intervention to diagnose, cure, care for, or treat the effects of disease or injury or congenital or degenerative condition;

(3) Health care practitioner shall mean an individual or group of individuals in the form of a partnership, limited liability company, or corporation licensed, certified, or otherwise authorized or permitted by law to administer health care in the course of professional practice and shall include the health care professions and occupations which are regulated in Chapter 71;

(4) Hospital shall mean a hospital as defined by section 71-2017.01 except state hospitals administered by the Department of Public Institutions Department of Health and Human Services;

(5) Institutional care providers shall mean all facilities licensed or otherwise authorized or permitted by law to administer health care in the ordinary course of business and shall include all facilities defined in section 71-2017.01;

(6) Issuer shall mean an insurance company, fraternal benefit society, health maintenance organization, third-party administrator, or other entity reimbursing the costs of health care expenses;

(7) Medicaid shall mean the medical assistance program pursuant to sections 68-1018 to 68-1025;

(8) Medicare shall mean Title XVIII of the federal Social Security Act, 42 U.S.C. 1395 et seq., as amended; and

(9) Uniform claim form shall mean the claim forms and electronic transfer procedures developed pursuant to section 44-527.

Sec. 236. Section 44-771, Reissue Revised Statutes of Nebraska, is amended to read:

44-771. Hospital shall mean an institution licensed as a hospital by the Department of Health Department of Health and Human Services Regulation and Licensure and described in subdivision (2) of section 71-2017.01.

Sec. 237. Section 44-772, Reissue Revised Statutes of Nebraska, is amended to read:

44-772. Alcoholic treatment center shall mean an institution licensed as an alcoholic treatment center by the Department of Health Department of Health and Human Services Regulation and Licensure and described in section 71-2017.01, which provides a program for the inpatient or outpatient treatment of alcoholism pursuant to a written treatment plan approved and monitored by a physician and which is affiliated with a hospital under a contractual agreement with an established system for patient referral.

Sec. 238. Section 44-773, Revised Statutes Supplement, 1995, is amended to read:

44-773. Outpatient program shall refer to a program which is not required to be licensed by the Department of Health Department of Health and Human Services Regulation and Licensure as an alcoholic treatment center but

which is certified pursuant to section 83-163 to provide specified services to persons suffering from the disease of alcoholism.

Sec. 239. Section 44-774, Revised Statutes Supplement, 1995, is amended to read:

44-774. Certified shall mean approved to render specific types or levels of care to the person suffering from the disease of alcoholism by the Division of Alcoholism, Drug Abuse, and Addiction Services of the Department of Public Institutions Department of Health and Human Services.

Sec. 240. Section 44-782, Reissue Revised Statutes of Nebraska, is amended to read:

44-782. No insurance company, health maintenance organization, or other health insurance provider shall deny payment for treatment of mental or nervous disorders under a policy, contract, certificate, or other evidence of coverage issued or delivered in Nebraska on the basis that the hospital or state institution licensed as a hospital by the Department of Health Department of Health and Human Services Regulation and Licensure and described in subdivision (2) of section 71-2017.01 providing such treatment is publicly funded and charges are reduced or no fee is charged depending on the patient's ability to pay.

Sec. 241. Section 44-2835, Revised Statutes Supplement, 1994, is amended to read:

44-2835. (1) Each malpractice claim settled or adjudicated to final judgment against a health care provider under the Nebraska Hospital-Medical Liability Act shall be reported to the director by the plaintiff's attorney and by the health care provider or his or her insurer or risk manager within sixty days following final disposition of the claim. Such report to the director shall state the following:

(a) The nature of the claim;  
 (b) The alleged injury and the damages asserted;  
 (c) Attorney's fees and expenses incurred in connection with the claim or defense; and

(d) The amount of any settlement or judgment.  
 (2) The director shall forward the name of every health care provider, except a hospital, against whom a settlement has been made or judgment has been rendered under the act to the Department of Health Department of Health and Human Services Regulation and Licensure for such action, if any, as it deems to be appropriate under the circumstances.

Sec. 242. Section 44-2847, Reissue Revised Statutes of Nebraska, is amended to read:

44-2847. (1) Medical review panels shall be concerned only with the determination of the questions set forth in section 44-2843. Such panels shall not consider or report on disputed questions of law.

(2) To provide for uniformity of procedure, the Director of Health Director of Regulation and Licensure shall appoint a doctor of medicine from the members of the Board of Examiners in Medicine and Surgery who shall sit with each panel as an observer and as an adviser on procedure but without a vote.

Sec. 243. Section 44-2901, Reissue Revised Statutes of Nebraska, is amended to read:

44-2901. Any three or more hospitals as defined in subdivisions (4) and (6) of section 71-2002, located in this state and licensed by the Department of Health Department of Health and Human Services Regulation and Licensure, may incorporate a mutual insurance association to insure member hospitals, their officers, directors, employees, and volunteer workers against liability arising from rendering, or failing to render, professional services in the treatment or care of patients by hospitals, their agents and employees, or by member physicians.

Sec. 244. Section 44-2904, Reissue Revised Statutes of Nebraska, is amended to read:

44-2904. Any hospital, whether within or without the state, shall be qualified to become a member of a hospital association incorporated under sections 44-2901 to 44-2918 if it is licensed either by the Department of Health Department of Health and Human Services Regulation and Licensure or by the corresponding authority in the state in which the hospital is located, ~~except - PROVIDED~~, that no hospital outside of this state may become a member of such an association until one year after March 31, 1976, nor may any risks outside this state be insured under the provisions of sections 44-2901 to 44-2918 until one year after the issuance of a certificate of authority to transact insurance business by the Department of Insurance. All such risks shall be subject to the prior approval of the Director of Insurance.

In determining whether or not to grant approval for the insuring of risks outside of Nebraska, the Director of Insurance shall consider the

following: (1) Limits of indemnity; (2) past and present loss experience of the hospital to be insured; (3) statutes, court decisions, and the insurance climate of the jurisdiction in which the risk is located; and (4) such other information as the director may deem relevant.

Sec. 245. Section 44-32,119, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,119. (1) Upon receipt of an application for issuance of a certificate of authority, the Director of Insurance shall forthwith transmit copies of such application and accompanying documents to the ~~Director of Health~~ Director of Regulation and Licensure.

(2) The ~~Director of Health~~ Director of Regulation and Licensure shall determine whether the applicant has complied with sections 44-32,126 to 44-32,128 with respect to health care services to be furnished.

(3) Within forty-five days of receipt of the application for issuance of a certificate of authority, the ~~Director of Health~~ Director of Regulation and Licensure shall certify to the Director of Insurance that the proposed health maintenance organization meets the requirements of such sections or notify the Director of Insurance that the health maintenance organization does not meet such requirements and specify in what respects it is deficient.

Sec. 246. Section 44-32,120, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,120. The Director of Insurance shall, within forty-five days of receipt of certification or notice of deficiencies pursuant to section 44-32,119, issue a certificate of authority to any person filing a completed application upon receiving the prescribed fees and being satisfied that:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations;

(2) Any deficiencies identified by the ~~Director of Health~~ Director of Regulation and Licensure have been corrected and the ~~Director of Health~~ Director of Regulation and Licensure has certified to the Director of Insurance that the health maintenance organization's proposed plan of operation meets the requirements of sections 44-32,126 to 44-32,128;

(3) The health maintenance organization will effectively provide or arrange for the provision of basic health care services on a prepaid basis, through insurance or otherwise, except to the extent of reasonable requirements for copayments or deductibles; and

(4) The health maintenance organization is in compliance with sections 44-32,138 to 44-32,148.

A certificate of authority shall be denied only after the Director of Insurance complies with the requirements of section 44-32,153.

Sec. 247. Section 44-32,127, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,127. Each health maintenance organization shall have an ongoing, internal quality assurance program to monitor and evaluate its health care services, including primary and specialist physician services, and ancillary and preventive health care services across all institutional and noninstitutional settings. The quality assurance program shall include, but not be limited to, the following:

(1) A written statement of goals and objectives which emphasizes improved health status in evaluating the quality of care rendered to enrollees;

(2) A written quality assurance plan which describes the following:

(a) The health maintenance organization's scope and purpose in quality assurance;

(b) The organizational structure responsible for quality assurance activities;

(c) Contractual arrangements, when appropriate, for delegation of quality assurance activities;

(d) Confidentiality policies and procedures;

(e) A system of ongoing evaluation activities;

(f) A system of focused evaluation activities;

(g) A system for credentialing providers and performing peer review activities; and

(h) Duties and responsibilities of the designated physician responsible for the quality assurance activities;

(3) A written statement describing the system of ongoing quality assurance activities, including, but not limited to, the following:

(a) Problem assessment, identification, selection, and study;

(b) Corrective action, monitoring, evaluation, and reassessment; and

(c) Interpretation and analysis of patterns of care rendered to individual patients by individual providers;



(4) A written statement describing the system of focused quality assurance activities based on representative samples of the enrolled population which identifies method of topic selection, study, data collection, analysis, interpretation, and report format; and

(5) A written plan for taking appropriate corrective action whenever, as determined by the quality assurance program, inappropriate or substandard services have been provided or services which should have been furnished have not been provided.

Each health maintenance organization shall record proceedings of formal quality assurance program activities and maintain documentation in a confidential manner. Quality assurance program minutes shall be available to the Director of Health Director of Regulation and Licensure. Each health maintenance organization shall also establish a mechanism for periodic reporting of quality assurance program activities to the governing body of the health maintenance organization, the providers, and appropriate staff.

Sec. 248. Section 44-32,128, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,128. Each health maintenance organization shall ensure the use and maintenance of an adequate patient record system which facilitates documentation and retrieval of clinical information for the purpose of the health maintenance organization evaluating continuity and coordination of patient care and assessing the quality of health and medical care provided to enrollees. Enrollee clinical records shall be available to the Director of Health Director of Regulation and Licensure or an authorized designee for examination and review to ascertain compliance with section 44-32,127 or as deemed necessary by the Director of Health Director of Regulation and Licensure.

Sec. 249. Section 44-32,134, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,134. (1) Every health maintenance organization shall file annually, on or before March 1, a report with the Director of Insurance, with a copy to the Director of Health Director of Regulation and Licensure, covering the preceding calendar year. The report shall be on forms prescribed by the Director of Insurance.

The goodwill, prepaid expenses, leasehold improvements, and furniture and equipment of a health maintenance organization may be shown on the report as admitted assets to an extent not exceeding eighty percent for calendar year 1991, sixty percent for calendar year 1992, forty percent for calendar year 1993, and twenty percent for calendar year 1994. For calendar years commencing with 1995, the goodwill, prepaid expenses, leasehold improvements, and furniture and equipment of a health maintenance organization shall not be shown on the report as admitted assets. For calendar years commencing with 1995, admitted assets shall be shown on the report in accordance with what are known as statutory accounting principles.

(2) Every health maintenance organization shall file annually, on or before March 1, with the Director of Insurance, with a copy to the Director of Health Director of Regulation and Licensure:

(a) A list of the providers who have executed a contract that complies with section 44-32,141; and

(b) A description of the grievance procedures, the total number of grievances handled through such procedures, a compilation of the causes underlying those grievances, and a summary of the final disposition of those grievances.

(3) Every health maintenance organization shall file annually, on or before June 1, audited financial statements with the Director of Insurance, with a copy to the Director of Health Director of Regulation and Licensure.

(4) The Director of Insurance may require such additional reports as are deemed necessary and appropriate to carry out his or her duties under the Health Maintenance Organization Act.

Sec. 250. Section 44-32,136, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,136. Each health maintenance organization shall establish and maintain a grievance procedure to provide for the resolution of grievances initiated by enrollees. The procedure shall be approved by the Director of Insurance after consultation with the Director of Health Director of Regulation and Licensure. The Director of Insurance or the Director of Health Director of Regulation and Licensure may examine the grievance procedure. The health maintenance organization shall maintain records regarding grievances received since the date of the last examination.

Sec. 251. Section 44-32,152, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,152. (1) The Director of Insurance may make an examination of

the affairs of any health maintenance organization in accordance with the Insurers Examination Act and any provider with whom such health maintenance organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this state. The ~~Director of Health~~ Director of Regulation and Licensure may make an examination concerning the quality assurance program of any health maintenance organization and any provider with whom such health maintenance organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this state but not less frequently than once every three years.

(2) Every health maintenance organization and provider shall submit its books and records for an examination and in every way facilitate the completion of the examination. For the purpose of an examination, the ~~Director of Insurance and Director of Health~~ Director of Regulation and Licensure may administer oaths to and examine the officers and agents of the health maintenance organization and the principals of a provider concerning the business. An examination shall not involve the confidential communications between physicians and patients.

(3) The expenses of an examination shall be assessed against the health maintenance organization being examined and remitted to the Director of Insurance or ~~Director of Health~~ Director of Regulation and Licensure for whom the examination is being conducted in the manner provided in the Insurers Examination Act.

(4) In lieu of an examination, the Director of Insurance or ~~Director of Health~~ Director of Regulation and Licensure may accept the report of an examination made by the insurance commissioner, insurance director, insurance superintendent, or equivalent official or director of health or equivalent official of another state.

Sec. 252. Section 44-32,153, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,153. If the Director of Insurance finds that any of the conditions listed in this section exist, any certificate of authority issued under the Health Maintenance Organization Act may be suspended or revoked or any application for a certificate of authority may be denied:

(1) The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in any other information submitted under section 44-32,117 unless amendments to such submissions have been filed with and approved by the director;

(2) The health maintenance organization issues an evidence of coverage or uses a schedule of charges for health care services which does not comply with the requirements of sections 44-32,129 to 44-32,133 and 44-32,149;

(3) The health maintenance organization does not provide or arrange for basic health care services;

(4) The ~~Director of Health~~ Director of Regulation and Licensure certifies to the Director of Insurance that:

(a) The health maintenance organization does not meet the requirements of subsection (2) of section 44-32,119; or

(b) The health maintenance organization is unable to fulfill its obligations to furnish health care services;

(5) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(6) The health maintenance organization has failed to correct, within the time prescribed by section 44-32,154, any deficiency occurring due to such health maintenance organization's prescribed minimum net worth being impaired;

(7) The health maintenance organization has failed to implement grievance procedures in a reasonable manner to resolve valid complaints;

(8) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;

(9) The continued operation of the health maintenance organization would be hazardous to its enrollees; or

(10) The health maintenance organization has otherwise failed substantially to comply with the act.

Sec. 253. Section 44-32,156, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,156. Suspension or revocation of a certificate of authority, the denial of an application for a certificate, or the imposition of an administrative penalty shall be by written order and shall be sent by the Director of Insurance to the health maintenance organization or applicant by

certified or registered mail and to the Director of Health Regulation and Licensure. The written order shall state the grounds, charges, or conduct on which the suspension, revocation, denial, or administrative penalty is based. The health maintenance organization or applicant may in writing request a hearing within thirty days from the date of mailing of the order. If no written request is made, such order shall be final upon the expiration of thirty days.

Sec. 254. Section 44-32,157, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,157. (1) If the health maintenance organization or applicant requests a hearing pursuant to section 44-32,156, the Director of Insurance shall issue a written notice of hearing and send it to the health maintenance organization or applicant by certified or registered mail and to the Director of Health Regulation and Licensure stating:

(a) A specific time for the hearing, which may not be less than twenty nor more than thirty days after mailing of the notice of hearing; and  
(b) A specific place for the hearing, which may be either in Lancaster County or in the county where the health maintenance organization's or applicant's principal place of business is located.

(2) If a hearing is requested, the Director of Health Regulation and Licensure or his or her designated representative shall be in attendance and shall participate in the proceedings. The recommendations and findings of the Director of Health Regulation and Licensure 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 of Insurance.

(3) After the hearing or upon failure of the health maintenance organization to appear at such hearing, the Director of Insurance shall take whatever action he or she deems necessary based on written findings and shall mail his or her decision to the health maintenance organization or applicant with a copy to the Director of Health Regulation and Licensure. The action of the Director of Insurance and the recommendation and findings of the Director of Health Regulation and Licensure may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act. The act shall apply to proceedings under this section to the extent it is not in conflict with this section.

Sec. 255. Section 44-32,163, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,163. Every health maintenance organization subject to the Health Maintenance Organization Act shall pay to the director the following fees:

- (1) For filing an application for a certificate of authority or amendment thereto, three hundred dollars;
- (2) For filing an amendment to the organizational documents that requires approval, twenty dollars;
- (3) For filing each annual report, two hundred dollars; and
- (4) For renewing a certificate of authority, one hundred dollars.

Fees charged under this section shall be distributed one-half to the Director of Insurance and one-half to the Department of Health and Human Services Regulation and Licensure. All fees or other assessments transmitted to the Department of Health and Human Services Regulation and Licensure pursuant to the act shall be remitted to the state treasury for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund. There shall be appropriated from money credited to the fund pursuant to this section such amounts as are available to pay expenses considered incident to the administration of the act.

Sec. 256. Section 44-32,165, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,165. If the Director of Insurance or the Director of Health Regulation and Licensure has for any reason cause to believe that any violation of the Health Maintenance Organization Act has occurred or is threatened, the Director of Insurance or Director of Health Regulation and Licensure may give notice to the health maintenance organization and to the representatives or other persons who appear to be involved in such suspected violation to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation and, if it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation. Proceedings under this section shall not be governed by any formal procedural requirements and

may be conducted in such manner as the Director of Insurance or ~~Director of Health~~ the Director of Regulation and Licensure deems appropriate under the circumstances. Unless consented to by the health maintenance organization, no rule or order may result from a conference until the requirements of this section are satisfied.

Sec. 257. Section 44-32,176, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,176. ~~The Director of Health~~ Director of Regulation and Licensure, in carrying out his or her obligations under the Health Maintenance Organization Act, may contract with qualified persons to make recommendations concerning the determinations required to be made by him or her. Such recommendations may be accepted in full or in part by the ~~Director of Health~~ Director of Regulation and Licensure.

Sec. 258. Section 44-4109.01, Revised Statutes Supplement, 1995, is amended to read:

44-4109.01. Policies or contracts authorized by sections 44-4109 and 44-4110 are subject to the following requirements:

(1) A prospective insured shall be provided information about the terms and conditions of the insurance arrangement to enable him or her to make an informed decision about accepting a system of health care delivery. If the insurance arrangement is described orally to a prospective insured, the description shall use easily understood, truthful, and objective terms. All written descriptions shall be in a readable and understandable format. Specific items that shall be included are:

(a) Coverage provisions, benefits, and any exclusions by category of service, provider, or physician and, if applicable, by specific service;

(b) Any prior authorization or other review requirements, including preauthorization review, concurrent review, postservice review, and postpayment review, the manner in which an insured may obtain review of a denial of coverage, and the nature of any liability an insured may incur if the insured does not comply with the authorization requirements of the policy, contract, certificate, or other materials; and

(c) Information on the insured's financial responsibility for payment for deductibles, coinsurance, or other noncovered services;

(2) If an insurer conducts customer satisfaction surveys concerning an insurance arrangement, the results of such surveys shall be made available upon request to existing and prospective participants in insurance arrangements;

(3) The policy, contract, certificate, or other materials shall establish a mechanism by which a committee of preferred providers will be involved in reviewing and advising the insurance arrangement about medical policy, including coverage of new technology and procedures, quality and credentialing criteria, and medical management procedures;

(4) All policies or contracts shall have a system for credentialing participating preferred providers and shall allow all providers within the insurance arrangement's geographic service area to apply for such credentials periodically and not less than annually. The credentialing process:

(a) Shall begin upon application of a provider for inclusion in the policy or contract; and

(b) Shall be based solely on quality, accessibility, or economic considerations and shall be applied in accordance with reasonable business judgment.

Credentialing standards or criteria shall be made available, upon request, to providers and insureds;

(5) If the policy or contract is with an organized delivery system formed by insurers, hospitals, physicians, or allied health professionals, or a combination of such entities, participation by a provider may be limited to a participant in the organized delivery system or to providers having staff privileges at a particular health care facility;

(6) If an insurer or a participant in an insurance arrangement refuses to contract with a provider, the provider shall be permitted to appeal the adverse decision. A person conducting the provider-appeal procedure may be employed by the insurer or participant in an insurance arrangement if the person does not initially participate in the decision to take adverse action against the provider. The provider-appeal procedure shall include, but not be limited to, notice of the date and time of the hearing, a statement of the criteria or standards on which the decision was based, an opportunity for the provider to review information upon which the adverse decision was based, an opportunity for the provider to appear personally at the hearing and present any additional information, and a timely decision on the appeal;

(7) If the insurer or participant in an insurance arrangement excludes or fails to retain a provider previously contracted with to provide

health care services, the provider shall be permitted to appeal the adverse decision in the same manner as set forth in subdivision (6) of this section. If the provider disagrees with the decision, the provider shall be permitted to appeal to an appeals committee consisting of one person selected by each party to the appeal and one person mutually agreeable to both parties. The parties to the appeal shall pay to the appeal committee any costs associated with the person they select and shall share the costs of the person mutually agreeable to both parties, which costs shall not be recoverable by the other party;

(8) Prior to initiation of a proceeding to terminate a provider's participation, the provider shall be given an opportunity to enter into and complete a corrective action plan, except in cases of fraud or imminent harm to patient health or when the provider's ability to provide services has been restricted by an action, including probation or any compliance agreements, by the Department of Health Department of Health and Human Services Regulation and Licensure or other governmental agency; and

(9) Policies and contracts shall not exclude providers with practices containing a substantial number of patients having severe or expensive medical conditions, except that this section shall not prohibit plans from excluding providers who fail to meet the insurance arrangement's criteria for quality, accessibility, or economic considerations.

Sec. 259. Section 44-6701, Revised Statutes Supplement, 1995, is amended to read:

44-6701. Sections 44-6701 to ~~44-6704~~ and ~~44-6702~~ shall be known and may be cited as the Health Care Purchasing Pool Act.

Sec. 260. Section 46-674.06, Reissue Revised Statutes of Nebraska, is amended to read:

46-674.06. If the Director of Environmental Quality determines from the study conducted pursuant to section 46-674.04 that one or more sources of contamination are not point sources and if a management area, the primary purpose of which is protection of water quality, has been established which includes the affected area, the Director of Environmental Quality shall consider whether to require the district which established the management area to adopt an action plan as provided in sections 46-674.07 to 46-674.11.

If the Director of Environmental Quality determines that one or more of the sources are not point sources and if such a management area has not been established, he or she shall, within thirty days after completion of the report required by section 46-674.04, consult with the district within whose boundaries the area affected by such contamination is located and fix a time and place for a public hearing to consider the report, hear any other evidence, and secure testimony on whether a special ground water quality protection area should be designated. The hearing shall be held within one hundred twenty days after completion of the report, shall be open to the public, and shall be located within or in reasonable proximity to the area considered in the report. Notice of the hearing shall be published in such newspapers as are necessary to provide for general circulation within the geographic area at least once each week for three consecutive weeks, the last publication to be not less than seven days prior to the hearing. The notice shall provide a general description of all areas which will be considered for inclusion in the special ground water quality protection area.

At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Department of Health Department of Health and Human Services Regulation and Licensure, the Department of Water Resources, the Nebraska Natural Resources Commission, and the appropriate district shall offer as evidence any information in their possession which they deem relevant to the purpose of the hearing. After the hearing and after any studies or investigations conducted by or on behalf of the Director of Environmental Quality as he or she deems necessary, the director shall determine whether a special ground water quality protection area shall be designated.

Sec. 261. Section 46-674.20, Reissue Revised Statutes of Nebraska, is amended to read:

46-674.20. Nothing in sections 46-674.02 to 46-674.20 shall be construed to limit the powers of the Department of Health Department of Health and Human Services Regulation and Licensure provided in Chapter 71, article 53.

Sec. 262. Section 46-1011, Reissue Revised Statutes of Nebraska, is amended to read:

46-1011. Plans and specifications for any proposed improvement authorized by sections 46-1001 to 46-1020 shall be filed with the Director of Water Resources, the Department of Health Department of Health and Human Services Regulation and Licensure, and with the secretary of the district. No

construction of any such improvement shall begin until the plans and specifications for such improvement have been approved by the Director of Water Resources and the Department of Health Department of Health and Human Services Regulation and Licensure, except if the improvement involves a public water supply system as defined in section 71-5301, only the Department of Health Department of Health and Human Services Regulation and Licensure shall be required to review the plans and specifications for such improvement and approve the same if in compliance with Chapter 71, article 53, and departmental regulations adopted thereunder. The total benefits of any such improvement shall be divided into a suitable number of benefit units. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he or she desires to participate in the benefits of the improvements. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners of land located within the district who are not participating members may subscribe to such units as the board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. If the capacity of the district's facilities permits, the district may sell water to persons engaged in hauling water and to any political subdivision organized under the laws of the State of Nebraska.

Sec. 263. Section 46-1018, Reissue Revised Statutes of Nebraska, is amended to read:

46-1018. It shall be the duty of the chairman chairperson of the board of directors to keep in repair such works as are constructed by the district as authorized in sections 46-1001 to 46-1020 and to operate such works, all as directed by the board. Such works shall be operated in conformance with the rules and regulations of the Department of Health Department of Health and Human Services Regulation and Licensure relating to water supply systems. The chairman chairperson and all persons who may perform any service or labor as provided in sections 46-1001 to 46-1020 shall be paid such just and reasonable compensation as may be allowed by the board of directors, and such board shall annually prepare an estimated budget for the coming year, adjust water rates, if necessary to produce sufficient revenue required by such budget, cause an annual audit of the district's records and accounts to be made, and make a report on such matters at each annual meeting.

Sec. 264. Section 46-1204.01, Revised Statutes Supplement, 1994, is amended to read:

46-1204.01. Abandoned water well shall mean any water well the use of which has been accomplished or permanently discontinued, which has been decommissioned as described in the rules and regulations of the Department of Health Department of Health and Human Services Regulation and Licensure, and the owner of which has filed a notice of abandonment with the Department of Water Resources if required by subsection (2) of section 46-602.

Sec. 265. Section 46-1207, Reissue Revised Statutes of Nebraska, is amended to read:

46-1207. Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 266. Section 46-1217, Reissue Revised Statutes of Nebraska, is amended to read:

46-1217. There is hereby created a Water Well Standards and Contractors' Licensing Board. The board shall be composed of nine members, five of whom shall be appointed by the Governor as follows: (1) A water well contractor representing irrigation water well contractors, (2) a water well contractor representing domestic water well contractors, (3) a water well contractor representing municipal and industrial water well contractors, (4) a pump installation contractor, and (5) a manufacturer or supplier of water well or pumping equipment. The director or his or her designated representative of the Department of Health Department of Health and Human Services Regulation and Licensure, the director or his or her designated representative of the Department of Environmental Quality, the director or his or her designated representative of the Department of Water Resources, and the director or his or her designated representative of the Conservation and Survey Division of the University of Nebraska shall also serve as members of the board. Each member shall be a resident of the state. Each appointed member of the board shall have had at least five years of experience in the business of his or her category prior to appointment and shall be actively engaged in such business at the time of appointment and while serving on the board. Each member representing a category subject to licensing under the Water Well Standards and Contractors' Licensing Act, with the exception of members initially appointed, shall be licensed by the department pursuant to such act. In

making appointments, the Governor may consider recommendations made by the trade associations of each category.

Sec. 267. Section 46-1225, Reissue Revised Statutes of Nebraska, is amended to read:

46-1225. (1) The board shall require that each individual licensed or certified pursuant to the Water Well Standards and Contractors' Licensing Act shall attend at least eighteen hours of continuing education in any three-year period in approved schools, clinics, forums, lectures, courses of study, or educational seminars relating to the practice of such profession or occupation as a prerequisite for the renewal of a license or certificate. The board shall consult with the appropriate professional academies, professional societies, and professional associations in the development of educational programs designed to promote the utilization and application of new techniques, advances, and the achievements of research assuring expansive and comprehensive service to the public. Such continuing education shall be obtained at a school, clinic, forum, lecture, course of study, or educational seminar approved by the board which may be held either within or outside the state. At least eighteen hours of approved schools, clinics, forums, lectures, courses of study, or educational seminars shall be available at approved schools, clinics, forums, lectures, courses of study, or educational seminars held within the State of Nebraska in any three-year period. The department may contract with institutions of higher learning, professional organizations, or qualified individuals to provide continuing education programs if the continuing education required pursuant to this section is not otherwise available.

(2) Each renewal applicant shall, on or before the date of expiration of his or her license or certificate in the year the requirement applies, certify on an affidavit form provided by the board that he or she has complied with the continuing education requirement during the preceding period. The board shall, on or before the date of expiration of the license or certificate in the year the requirement applies, report all licensees and certificate holders who have complied with the educational requirement to the Director of Health Director of Regulation and Licensure. Any licensee or certificate holder who has not complied with the educational requirement shall not be issued a renewal license or certificate, unless he or she is exempted from the requirement or he or she is unable to comply with the requirement due to circumstances beyond his or her control as determined by the board. Procedures for refusal of renewal of licenses and certificates or reinstatement of licenses and certificates shall be in accordance with section 46-1237.

Sec. 268. Section 46-1235, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235. In cases other than those relating to failure to meet the requirements for an initial license or an initial certificate, the department may deny, refuse renewal of, suspend, or revoke licenses or certificates or may take other disciplinary action for any of the following acts or offenses:

(1) Practice of fraud or deceit in obtaining a license or certificate;

(2) Violation of the Water Well Standards and Contractors' Licensing Act or any standards, rules, or regulations adopted and promulgated pursuant to such act;

(3) Incompetence or gross negligence in the performance of any activity for which licenses or certificates are issued pursuant to the act;

(4) Conduct or practices detrimental to the health or safety of persons hiring the services of the licensee or certificate holder or of members of the general public;

(5) Practice of the trade fraudulently, beyond the authorized scope, or with manifest incapacity;

(6) Practice of the trade while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical disability;

(7) Permitting, aiding, or abetting the practice of the trade or the performance of activities requiring a license or certificate by a person not licensed or certified to do so;

(8) Having had a license or certificate denied, refused renewal, limited, suspended, or revoked or having been disciplined in any other manner by another state or jurisdiction to practice water well construction, water well drilling, or pump installation based upon acts by the applicant, licensee, or certificate holder similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or certificate or the taking of other disciplinary action by another state or jurisdiction shall be conclusive evidence;

(9) Unprofessional conduct as may be defined in rules and regulations of the board with approval of the department;

(10) Practice of the trade while the license or certificate to do so is suspended or practice of the trade in contravention of any limitation placed upon the license or certificate; or

(11) Failing to file the report required by section 46-604.

A licensee or certificate holder shall not engage in the practice of the trade after a license or certificate is revoked or during the time for which it is suspended. If a license or certificate is suspended, the suspension shall be for a definite period of time to be fixed by the Director of Health Director of Regulation and Licensure, and such license or certificate shall be automatically reinstated upon the expiration of such period if the current renewal fee has been paid. If such license or certificate is revoked, such revocation shall be for one year.

Sec. 269. Section 46-1235.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235.01. The authority of the Director of Health Director of Regulation and Licensure to discipline a licensee or certificate holder by placing him or her on probation pursuant to sections 46-1235 and 46-1237.02 shall include, but not be limited to, the following:

(1) To require the licensee or certificate holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or technical examination, or both, or any or all of such combinations of written, oral, practical, and technical at the option of the director; or

(2) To restrict or limit the extent, scope, or type of practice of the licensee or certificate holder upon consultation with the board.

Sec. 270. Section 46-1237.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1237.01. The department may temporarily suspend or limit a license or certificate without notice or hearing if the Director of Health Director of Regulation and Licensure determines that there is reasonable cause to believe that grounds exist under section 46-1235 for the revocation, suspension, or limitation of the license or certificate and that the licensee's or certificate holder's continuation in practice would constitute an imminent danger to public health and safety. Simultaneously with any such action, the department shall institute proceedings for a hearing on the grounds for revocation, suspension, or limitation. Such hearing shall be held no later than fifteen days from the date of such temporary suspension or limitation. A continuance of the hearing shall be granted by the department upon written request of the licensee or certificate holder, and such a continuance shall not exceed thirty days. An order of temporary suspension or limitation shall take effect when served in person upon the licensee or certificate holder. A temporary suspension or limitation shall not be in effect for a period in excess of one hundred eighty days. At the end of such one-hundred-eighty-day period, the license or certificate shall be reinstated unless the department has revoked, suspended, or limited the license or certificate after notice and hearing.

Sec. 271. Section 46-1237.02, Reissue Revised Statutes of Nebraska, is amended to read:

46-1237.02. (1) All proceedings under the Water Well Standards and Contractors' Licensing Act shall be summary in nature and triable as equity actions. Affidavits may be received in evidence at the discretion of the Director of Health Director of Regulation and Licensure. The department may administer oaths, subpoena witnesses and compel their attendance, and issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as a district court. Depositions may be used by either party.

(2) Upon the completion of any hearing, the director may enter an order to exercise any or all of the following powers irrespective of the petition:

(a) Issue a censure or reprimand against the licensee or certificate holder;

(b) Suspend judgment;

(c) Place the licensee or certificate holder on probation;

(d) Place a limitation on the license or certificate and upon the right of the licensee or certificate holder to practice the trade to such extent, scope, or type of practice, for such time, and under such conditions as are found necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;

(e) Impose a civil penalty under section 46-1240. The amount of the



penalty shall be based on the severity of the violation;

- (f) Enter an order of suspension;
- (g) Enter an order of revocation; or
- (h) Dismiss the action.

(3) If a licensee or certificate holder fails to appear, either in person or by counsel, at the time and place designated in a notice, the director, after receiving satisfactory evidence of the truth of the charges, shall order the license or certificate revoked or suspended or shall order any other appropriate disciplinary action.

(4) Any order issued under the act may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 272. Section 46-1240.05, Reissue Revised Statutes of Nebraska, is amended to read:

46-1240.05. (1) Whenever the ~~Director of Health~~ Director of Regulation and Licensure has reason to believe that a violation of any provision of the Water Well Standards and Contractors' Licensing Act or any rule or regulation adopted and promulgated by the department is occurring or has occurred, he or she may cause an administrative order to be served upon the person alleged to be in violation. Such order shall specify the violation and the facts alleged to constitute a violation and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless the person named in the order requests in writing a hearing before the director no later than thirty days after the date such order is served. In lieu of such order, the director may require that the person appear before the director at a time and place specified in the notice and answer the charges. The notice shall be served on the person not less than thirty days before the time set for the hearing.

(2) Whenever the director finds that an emergency exists requiring immediate action to protect the public health and welfare concerning a chemical, material, procedure, or act which is determined by the director to be harmful or potentially harmful to human health, the director may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply immediately and, on written application to the director, shall be afforded a hearing as soon as possible and not later than ten days after receipt of such application by such affected person. On the basis of such hearing, the director shall continue such order in effect, revoke it, or modify it.

(3) The director shall afford to the alleged violator an opportunity for a hearing before the department.

Sec. 273. Section 47-408, Reissue Revised Statutes of Nebraska, is amended to read:

47-408. The ~~Department of Social Services~~ Department of Health and Human Services shall, at the request of the court, investigate and report to the court the amount necessary for the support of the prisoner's dependents.

Sec. 274. Section 48-602, Revised Statutes Supplement, 1995, is amended to read:

48-602. For purposes of the Employment Security Law, unless the context otherwise requires:

(1) Base period shall mean the last four completed calendar quarters immediately preceding the first day of an individual's benefit year, except that the commissioner may prescribe by rule and regulation that base period shall mean the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(2) Benefits shall mean the money payments payable to an individual with respect to his or her unemployment;

(3) Benefit year, with respect to any individual, shall mean the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be a valid claim for the purpose of this subdivision if the individual has been paid the wages for insured work required under section 48-627. For the purposes of this subdivision a week with respect to which an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of such week;

(4) Calendar quarter shall mean the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commissioner of Labor may by rule and regulation

prescribe;

(5) Combined tax shall mean the employer liability consisting of contributions and commencing January 1, 1996, the state unemployment insurance tax;

(6) Combined tax rate shall mean the rate which is applied to wages to determine the combined taxes due;

(7) Commissioner shall mean the Commissioner of Labor;

(8) Contribution rate shall mean the percentage of the combined tax rate used to determine the contribution portion of the combined tax;

(9) Contributions shall mean that portion of the combined tax based upon the contribution rate portion of the combined tax rate which is deposited in the state Unemployment Compensation Fund as required by sections 48-648 and 48-649;

(10) Department shall mean the Department of Labor;

(11) Employee leasing company shall mean an independently established business entity which engages in the business of providing leased employees to a client-lessee. Client-lessee shall mean any other employer, individual, organization, partnership, limited liability company, corporation, or other legal entity;

(12) Employment office shall mean a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, including public employment offices operated by an agency of a foreign government;

(13) Fund shall mean the Unemployment Compensation Fund established by section 48-617 to which all contributions and payments in lieu of contributions required and from which all benefits provided shall be paid;

(14) Hospital shall mean an institution which has been licensed, certified, or approved by the Department of Health Department of Health and Human Services Regulation and Licensure as a hospital;

(15) Institution of higher education shall mean an institution which: (a) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate; (b) is legally authorized in this state to provide a program of education beyond high school; (c) provides an educational program for which it awards a bachelor's degree or higher or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and (d) is a public or other nonprofit institution; notwithstanding any of the foregoing provisions of this subdivision, all colleges and universities in this state are institutions of higher education for purposes of this section;

(16) Insured work shall mean employment for employers;

(17) Leave of absence shall mean any absence from work: (a) Mutually and voluntarily agreed to by the employer and the employee; (b) mutually and voluntarily agreed to between the employer and the employee's bargaining agent; or (c) to which the employee is entitled to as a matter of state or federal law;

(18) Payments in lieu of contributions shall mean the money payments to the Unemployment Compensation Fund required by sections 48-649, 48-652, 48-660.01, and 48-661;

(19) State includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

(20) State unemployment insurance tax shall mean that portion of the combined tax commencing January 1, 1996, which is based upon the state unemployment insurance tax rate portion of the combined tax rate and which is deposited in the State Unemployment Insurance Trust Fund as required by sections 48-648 and 48-649;

(21) State unemployment insurance tax rate shall mean the percentage of the combined tax rate used to determine the state unemployment insurance tax portion of the combined tax;

(22) Temporary employee shall mean an employee of a temporary help firm assigned to work for the clients of such temporary help firm;

(23) Temporary help firm shall mean a firm that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

(24) Unemployed shall mean an individual during any week in which the individual performs no service and with respect to which no wages are payable to the individual or any week of less than full-time work if the wages payable with respect to such week are less than the individual's weekly benefit amount, but shall not include any individual on a leave of absence;

(25) Unemployment Trust Fund shall mean the trust fund in the Treasury of the United States of America established under section 904 of the Federal Social Security Act which receives credit from the state Unemployment Compensation Fund;

(26) Wages, except with respect to services performed in employment as provided in subdivisions (4)(c) and (d) of section 48-604, shall mean all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules and regulations prescribed by the commissioner. After December 31, 1985, wages shall include tips which are received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code. With respect to services performed in employment in agricultural labor as is provided in subdivision (4)(c) of section 48-604 or in domestic service as is provided in subdivision (4)(d) of section 48-604, wages shall mean cash remuneration for such services, except that as used in sections 48-648 and 48-649 only, the term wages shall not include that part of the remuneration which, after remuneration equal to seven thousand dollars has been paid to an individual by an employer or by the predecessor of such employer with respect to employment within this or any other state during any calendar year, is paid to such individual by such employer during such calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

The term wages shall not include:

(a) The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to, or on behalf of, an individual in employment or any of his or her dependents under a plan or system established by an employer which makes provision for such individuals generally or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment, on account of (i) sickness or accident disability, except, in the case of payments made to an employee or any of his or her dependents, this subdivision (i) shall exclude from wages only payments which are received under a workers' compensation law, (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) death;

(b) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code;

(c) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months following the last calendar month in which such individual worked for such employer;

(d) Any payment made to, or on behalf of, an individual or his or her beneficiary (i) from or to a trust described in section 401(a) of the Internal Revenue Code which is exempt from tax under section 501(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code;

(e) Any payment made to, or on behalf of, an employee or his or her beneficiary (i) under a simplified employee pension as defined by the commissioner, (ii) under or to an annuity contract as defined by the commissioner, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise, (iii) under or to an exempt governmental deferred compensation plan as defined by the commissioner, (iv) to supplement pension benefits under a plan or trust, as defined by the commissioner, to take into account some portion or all of the increase in the cost of living since retirement, but only if such supplemental payments are under a plan which is treated as a welfare plan, or (v) under a cafeteria benefits plan; and

(f) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business;

(27) Week shall mean such period of seven consecutive days as the commissioner may by rule and regulation prescribe; and

(28) Week of unemployment with respect to any individual shall mean any week during which he or she performs less than full-time work and the wages payable to him or her with respect to such week are less than his or her

weekly benefit amount.

Sec. 275. Section 48-647, Revised Statutes Supplement, 1995, is amended to read:

48-647. (1) Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under sections 48-623 to 48-626 shall be void except as set forth in this section. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his or her spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void. Any assignment, pledge, or encumbrance of any right or claim to contributions or to any money credited to any employer's reserve account in the Unemployment Compensation Fund shall be void, and the same shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt, and any waiver of any exemption provided for in this section shall be void.

(2)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes child support obligations as defined under subdivision (b) of this subsection. If such individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the Director of Social Services Director of Finance and Support that the individual has been determined to be eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation otherwise payable to an individual disclosing child support obligations:

(i) The amount specified by the individual to the commissioner to be deducted under this subsection, if neither subdivision (ii) nor (iii) of this subdivision is applicable;

(ii) The amount, if any, determined pursuant to an agreement between the Director of Social Services director and such individual owing the child support obligations to have a specified amount withheld and such agreement being submitted to the commissioner, unless subdivision (iii) of this subdivision is applicable; or

(iii) The amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in subdivision (2)(i) of this section, properly served upon the commissioner.

(c) Any amount deducted and withheld under subdivision (b) of this subsection shall be paid by the commissioner to the Director of Social Services director.

(d) Any amount deducted and withheld under subdivision (b) or (g) of this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the Director of Social Services director in satisfaction of his or her child support obligations.

(e) For purposes of subdivisions (a) through (d) and (g) of this subsection, the term unemployment compensation shall mean any compensation payable under the Employment Security Law and including amounts payable by the commissioner pursuant to an agreement by any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection shall apply only if appropriate arrangements have been made for reimbursement by the Department of Social Services Department of Health and Human Services Finance and Support for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the Department of Social Services Department of Health and Human Services Finance and Support.

(g) The Director of Social Services director and the commissioner shall develop and implement a collection system to carry out the intent of this subdivision. The system shall, at a minimum, provide that:

(i) The commissioner shall periodically notify the director of the information listed in section 43-1719 with respect to individuals determined to be eligible for unemployment compensation during such period;

(ii) Unless the county attorney or authorized attorney has sent a notice on the same support order under section 43-1720, upon the notification required by subdivision (2)(g)(i) of this section, the director shall send notice to any such individual who owes child support obligations and who is subject to income withholding pursuant to subdivision (2)(a), (2)(b)(ii), or

(2)(b)(iii) of section 43-1718.01. The notice shall be sent by certified mail to the last-known address of the individual and shall state the same information as required under section 43-1720;

(iii)(A) If the support obligation is not based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the Department of Social Services ~~Department of Health and Human Services Finance and Support~~ shall hold a hearing within fifteen days of the date of receipt of the request. The hearing shall be in accordance with the Administrative Procedure Act. The assignment shall be held in abeyance pending the outcome of the hearing. The department shall notify the individual and the commissioner of its decision within fifteen days of the date the hearing is held; and

(B) If the support obligation is based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the county attorney or authorized attorney shall apply the procedures described in sections 43-1732 to 43-1742;

(iv)(A) If no hearing is requested by the individual under this subsection or pursuant to a notice sent under section 43-1720, (B) if after a hearing under this subsection or section 43-1721 the department determines that the assignment should go into effect, (C) in cases in which the court has ordered income withholding for child support pursuant to subsection (1) of section 43-1718.01, or (D) in cases in which the court has ordered income withholding for child support pursuant to section 43-1718.02 and the case subsequently becomes one in which child support collection services are being provided under Title IV-D of the federal Social Security Act, as amended, the director shall certify to the commissioner the amount to be withheld for child support obligations from the individual's unemployment compensation. Such amount shall not in any case exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount withheld to satisfy an arrearage of child support when added to the amount withheld to pay current support shall not exceed such maximum amount;

(v) The collection system shall comply with the requirements of Title III and Title IV-D of the federal Social Security Act, as amended;

(vi) The collection system shall be in addition to and not in substitution for or derogation of any other available remedy; and

(vii) The director and the commissioner shall adopt and promulgate rules and regulations to carry out subdivision (2)(g) of this section.

(h) For purposes of this subsection, the term child support obligations shall include only obligations which are being enforced pursuant to a plan described in section 454 of the federal Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the federal Social Security Act.

(i) For purposes of this subsection, the term legal process shall mean any writ, order, summons, or other similar process in the nature of garnishment, which:

(i) Is issued by a court of competent jurisdiction of any state, territory, or possession of the United States or an authorized official pursuant to order of such a court of competent jurisdiction or pursuant to state law. For purposes of this subdivision, the ~~Director of Social Services~~ Director of Finance and Support shall be deemed an authorized official pursuant to order of a court of competent jurisdiction or pursuant to state law; and

(ii) Is directed to, and the purpose of which is to compel, the commissioner to make a payment for unemployment compensation otherwise payable to an individual in order to satisfy a legal obligation of such individual to provide child support.

(j) Nothing in this subsection shall be construed to authorize withholding from unemployment compensation of any support obligation other than child support obligations.

Sec. 276. Section 48-1902, Revised Statutes Supplement, 1994, is amended to read:

48-1902. For purposes of sections 48-1901 to 48-1910, unless the context otherwise requires:

(1) Alcohol shall mean any product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, synthetic ethyl alcohol, the four varieties of liquor defined in subdivisions (1) through (4) of section 53-103, alcohol, spirits, wine, and beer, every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and alcohol used in the manufacture of denatured alcohol, flavoring extracts, syrups, or medicinal, mechanical, scientific, culinary, and toilet preparations;

(2) Breath-testing device shall mean intoxilyzer model 4011AS or other scientific testing equivalent as approved by and operated in accordance with the department rules and regulations;

(3) Breath-testing-device operator shall mean a person who has obtained or been issued a permit pursuant to the department rules and regulations;

(4) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(5) Department rules and regulations shall mean the techniques and methods authorized pursuant to section 60-6,201;

(6) Drug shall mean any substance, chemical, or compound as described, defined, or delineated in sections 28-405 and 28-419 or any metabolite or conjugated form thereof, except that any substance, chemical, or compound containing any product as defined in subdivision (1) of this section may also be defined as alcohol;

(7) Employee shall mean any person who receives any remuneration, commission, bonus, or other form of wages in return for such person's actions which directly or indirectly benefit an employer; and

(8) Employer shall mean the State of Nebraska and its political subdivisions, all other governmental entities, or any individual, association, corporation, or other organization doing business in the State of Nebraska unless it, he, or she employs a total of less than six full-time and part-time employees at any one time.

Sec. 277. Section 49-506, Revised Statutes Supplement, 1995, is amended to read:

49-506. After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Aeronautics, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Environmental Quality, ~~the Department of Health~~; the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, ~~the Department of Public Institutions~~; the Department of Revenue, the Department of Roads, ~~the Department of Social Services~~; the Department of Veterans' Affairs, the Department of Water Resources, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, the Nebraska Natural Resources Commission, the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support, and the Library of Congress; two copies to the Governor, the Secretary of State, the Nebraska Workers' Compensation Court, the Commission of Industrial Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; eight copies to the Clerk of the Legislature; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, and the Library of Congress; two copies to the Secretary of State, the Commission of Industrial Relations, and the Nebraska Workers' Compensation Court; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507

to 49-509.

Sec. 278. Section 49-617, Revised Statutes Supplement, 1995, is amended to read:

49-617. The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; up to sixteen copies to the State Court Administrator; twelve copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; four copies to the Clerk of the Legislature for use in his or her office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under control of the sergeant at arms; two copies each to the Governor of the state, the Chief Justice and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of the Supreme Court and Court of Appeals, the Auditor of Public Accounts, the Commissioner of Labor, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Aeronautics, the Director of Economic Development, the director of the Public Employees Retirement Board, ~~the Director of Health,~~ the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Director of Veterans' Affairs, the Director of Water Resources, ~~the Director of Social Services,~~ ~~the Director of Public Institutions,~~ the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each judge of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, the Nebraska Natural Resources Commission, the State Real Estate Commission, the secretary of the Game and Parks Commission, the Board of Pardons, ~~the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support,~~ each state institution under the Department of Public Institutions ~~Department of Health and Human Services,~~ each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska state colleges, each district judge of the State of Nebraska, each judge of the county court, each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

Sec. 279. Section 54-747, Reissue Revised Statutes of Nebraska, is amended to read:

54-747. Whenever any animal has been adjudged to be affected with any infectious, contagious, or otherwise transmissible disease, other than a disease for which specific legislation exists, and has been ordered killed, the owner or custodian thereof shall be notified of such finding and order. Within forty-eight hours thereafter, such owner or custodian may file a protest with the Department of Agriculture stating under oath that to the best of his or her knowledge and belief such animal is free from such infectious, contagious, or otherwise transmissible disease. Thereupon, an examination of

the animal involved shall be made by three veterinarians, graduates of a college of veterinary medicine which has been approved by the Department of Health Department of Health and Human Services Regulation and Licensure as a preliminary qualification for admission to practice veterinary medicine in the state. One of such veterinarians shall be appointed by the department, one by the person making such protest, and the two thus appointed shall choose the third. In case all three veterinarians or any two of them find such animal to be free from such infectious, contagious, or otherwise transmissible disease, the expense of such examination shall be paid by the state. In case the three veterinarians or any two of them find such animal to be affected with such infectious, contagious, or otherwise transmissible disease, the expense of the examination shall be paid by the person making the protest. The department and the person making such protest shall be bound by the result of such examination.

Sec. 280. Section 60-493, Reissue Revised Statutes of Nebraska, is amended to read:

60-493. When a person applies for an operator's license or state identification card, the county treasurer, examiner of the Department of Motor Vehicles, or local examiner shall distribute a brochure provided by an organ and tissue recovery agency and approved by the Department of Health Department of Health and Human Services Regulation and Licensure containing a description and explanation of the Uniform Anatomical Gift Act to each person applying for a new or renewal license or card. If an individual desires to receive additional specific information regarding anatomical gifts as indicated on an application under section 60-484, 60-4,144, or 60-4,181, the department shall notify a representative of the Nebraska Organ Retrieval System within five working days of the name and address of such individual.

Sec. 281. Section 60-4,118.02, Revised Statutes Supplement, 1994, is amended to read:

60-4,118.02. (1) There is hereby created the Health Advisory Board which shall consist of six health care providers appointed by the director with the advice and recommendation of the Director of Health Director of Regulation and Licensure. The members of the board shall consist of one general practice physician, one physician engaged in the practice of ophthalmology, one physician engaged in the practice of orthopedic surgery, one physician engaged in the practice of neurological medicine and surgery, one optometrist, and one psychiatrist. Each member of the board shall be licensed to practice his or her profession pursuant to the Uniform Licensing Law.

(2) Of the initial members of the board, two shall be appointed for four years, two shall be appointed for three years, and two shall be appointed for two years. Thereafter, each member shall be appointed for a term of four years and until a successor is appointed and qualified. If a vacancy occurs for any reason other than the expiration of a term, the director Director of Motor Vehicles may appoint a person licensed in the same type of professional practice as the member being replaced to serve out the unexpired term. Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The board shall meet as necessary at the call of the director. At the initial meeting of the board following completion of the initial appointments, the board shall select from among its members a chairperson and shall designate any other officers or committees as it deems necessary. The board may select officers and committees annually or as necessary to fill vacancies and to carry out duties of the board.

Sec. 282. Section 60-6,104, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,104. All samples and tests of body fluids under sections 60-6,101 to 60-6,103 shall be submitted to and performed by an individual possessing a valid permit issued by the Department of Health Department of Health and Human Services Regulation and Licensure for such purpose. Such tests shall be performed according to methods approved by the department. Such individual shall promptly perform such analysis and report the results thereof to the official submitting the sample.

Sec. 283. Section 60-6,107, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,107. (1) Except as provided in subsection (2) of this section, the Department of Health Department of Health and Human Services Regulation and Licensure shall adopt necessary rules and regulations for the administration of the provisions of sections 60-6,101 to 60-6,106.

(2) The Department of Roads shall adopt and promulgate rules and regulations which shall provide for the release and disclosure of the results of tests conducted under sections 60-6,102 and 60-6,103.



Sec. 284. Section 60-6,201, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,201. (1) Any test made under section 60-6,197, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution under a state statute or city or village ordinance involving operating a motor vehicle while under the influence of alcoholic liquor or drugs or involving driving or being in actual physical control of a motor vehicle when the concentration of alcohol in the blood or breath is in excess of allowable levels.

(2) Any test made under section 60-6,211.02, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution involving operating or being in actual physical control of a motor vehicle in violation of section 60-6,211.01.

(3) To be considered valid, tests of blood, breath, or urine made under section 60-6,197 or 60-6,211.02 shall be performed according to methods approved by the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure and by an individual possessing a valid permit issued by such department for such purpose, except that a physician, registered nurse, or other trained person employed by a licensed institution or facility which is defined in section 71-2017.01 or clinical laboratory certified pursuant to the Nebraska Clinical Laboratories Certification Act, the federal Clinical Laboratory Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes, acting at the request of a peace officer, may withdraw blood for the purpose of a test to determine the alcohol concentration or the presence of drugs and no permit from the department shall be required for such person to withdraw blood pursuant to such an order. The department may approve satisfactory techniques or methods to perform such tests and may ascertain the qualifications and competence of individuals to perform such tests and issue permits which shall be subject to termination or revocation at the discretion of the department.

(4) A permit fee may be established by regulation by the department which shall not exceed the actual cost of processing the initial permit. Such fee shall be charged annually to each permit holder. The fees shall be used to defray the cost of processing and issuing the permits and other expenses incurred by the department in carrying out this section. The fee shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund as a laboratory service fee.

(5) Relevant evidence shall not be excluded in any prosecution under a state statute or city or village ordinance involving operating a motor vehicle while under the influence of alcoholic liquor or drugs or involving driving or being in actual physical control of a motor vehicle when the concentration of alcohol in the blood, breath, or urine is in excess of allowable levels on the ground that the evidence existed or was obtained outside of this state.

Sec. 285. Section 68-104, Revised Statutes Supplement, 1995, is amended to read:

68-104. ~~The Department of Social Services~~ Department of Health and Human Services shall be the overseer of the poor and shall be vested with the entire and exclusive superintendence of the poor in this state, except that, subject to the limitations of section 68-1022, the county board of each county shall furnish such medical service as may be required for the poor of the county who are not eligible for other medical assistance programs and general assistance for the poor of the county. Any person who is or becomes ineligible for other medical assistance programs due to his or her own actions or inactions shall also be ineligible for medical services from the county.

The county board of each county shall administer the medical assistance provided pursuant to this section. A county board may enter into an agreement with the ~~Department of Social Services~~ Department of Health and Human Services which allows the department to aid in the administration of such medical assistance program. In providing medical and hospital care for the poor, the county board shall make use of any existing facilities, including tax-supported hospitals and charitable clinics so far as the same may be available, and shall use the financial eligibility criteria established for the standard of need developed by the county pursuant to section 68-126.

Sec. 286. Section 68-126, Reissue Revised Statutes of Nebraska, is amended to read:

68-126. ~~The Director of Social Services~~ Director of Finance and Support shall immediately adopt and promulgate rules and regulations establishing maximum payments for all health services furnished to recipients of public assistance. Each county shall, not later than December 31, 1984,

establish a standard of need for medical services furnished, pursuant to section 68-104, by the counties to indigent persons who are not eligible for other medical assistance programs. This standard shall not exceed the Office of Management and Budget income poverty guidelines.

Sec. 287. Section 68-128, Reissue Revised Statutes of Nebraska, is amended to read:

68-128. From such funds as may be appropriated for such purpose, the ~~Department of Social Services~~ Department of Health and Human Services shall provide emergency assistance benefits on behalf of families who have children.

Sec. 288. Section 68-129, Reissue Revised Statutes of Nebraska, is amended to read:

68-129. The ~~Director of Social Services~~ Director of Health and Human Services shall, by rule and regulation, when determining need for public assistance on the basis of available resources, exclude from the definition of available resources of an applicant for assistance either the funds deposited in an irrevocable trust fund created pursuant to section 12-1106 or up to three thousand dollars of the amount paid for a policy of insurance the proceeds of which are specifically and irrevocably designated, assigned, or pledged for the payment of the applicant's burial expenses. This section shall not preclude the eligibility for assistance of an applicant who has purchased such a policy of insurance prior to July 9, 1988, unless such applicant is subject to subdivision (3) of section 68-1002.

Sec. 289. Section 68-130, Reissue Revised Statutes of Nebraska, is amended to read:

68-130. Counties shall maintain, at no additional cost to the ~~Department of Social Services~~ Department of Health and Human Services ~~Finance and Support~~, office and service facilities used for the administration of the public assistance programs as such facilities existed on April 1, 1983.

Sec. 290. Section 68-134, Reissue Revised Statutes of Nebraska, is amended to read:

68-134. The standards established pursuant to section 68-133 and all amendments to such standards shall be reviewed by the county on a biennial basis to insure that such standards reflect changes in living standards and costs-of-living. A copy of all standards and amendments to such standards shall be filed with the ~~Department of Social Services~~ Department of Health and Human Services within thirty days after their adoption by the county. Upon request of a county board, the ~~Department of Social Services~~ Department of Health and Human Services shall assist the board in developing standards or amendments. Each county shall make a copy of its standards and amendments available for public inspection during normal business hours.

Sec. 291. Section 68-156, Revised Statutes Supplement, 1994, is amended to read:

68-156. Any county utilizing a community service program for employable recipients as outlined in sections 68-151 to 68-155 shall file an annual written report which shall include the number of persons placed through the community service program, the numbers of hours of experience provided, the duration and location of each placement including the name and address of the business or agency accepting the placement, and the specific skills learned in the placement.

Commencing in 1992, the report shall be filed with the ~~Department of Social Services~~ Department of Health and Human Services, by October 1 of each year for the fiscal year ending the preceding June 30.

The department shall annually compile the written reports from each county and summarize the findings in a written report to the Legislature by December 31. The report shall include the status of the number and use of community service placements, the locations of the placements, the number of hours worked, and the work skills addressed in the placements.

Sec. 292. Section 68-157, Revised Statutes Supplement, 1995, is amended to read:

68-157. (1) The Legislature finds that (a) technology in delivering government assistance is rapidly changing, (b) such technology includes electronic benefit transfer systems, (c) major improvements have been made to electronic benefit transfer systems to lower costs and increase accountability, (d) such systems are being developed on the federal and nationwide levels, and (e) Nebraska should study and consider being a part of a national electronic benefit transfer system.

(2) The Governor shall appoint a task force consisting of one representative each of the Office of the Governor, the Department of Banking and Finance, the ~~Department of Social Services~~ Department of Health and Human Services ~~Finance and Support~~, and the banking industry, two representatives of the electronic transfer system industry, three representatives of the retail

grocery industry, and two persons currently receiving public assistance benefits. The chairpersons of the Banking, Commerce and Insurance Committee and the Health and Human Services Committee of the Legislature shall also be members of the task force. The task force shall study and make recommendations for an electronic benefit transfer system to deliver the most economic method for distribution of public assistance benefits. The study and recommendations shall be presented to the Legislature on or before December 1, 1995.

Sec. 293. Section 68-214, Reissue Revised Statutes of Nebraska, is amended to read:

68-214. Subject to sections 68-1038 to 68-1043, the Department of Social Services Department of Health and Human Services Finance and Support shall be reimbursed any assistance to the aged, blind, or disabled by the spouse, father, mother, or child of any recipient if they or any of them are of sufficient ability. A proceeding may be instituted in any court of competent jurisdiction in this state against any such relative for reimbursement of assistance payments made to or on behalf of a recipient at any time prior to the expiration of one year after the date of the last assistance payment. Suit shall be instituted in the name of the Director of Social Services Director of Finance and Support.

Sec. 294. Section 68-309, Reissue Revised Statutes of Nebraska, is amended to read:

68-309. The Department of Social Services Department of Health and Human Services Finance and Support shall be the sole agency of the State of Nebraska to administer the State Assistance Fund for assistance to the aged, blind, or disabled, aid to dependent children, medical assistance, medically handicapped children's services, child welfare services, and such other assistance and services as may be made available to the State of Nebraska by the government of the United States.

Sec. 295. Section 68-312, Reissue Revised Statutes of Nebraska, is amended to read:

68-312. The Department of Social Services Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support shall have the power to establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files, and communications of the state. The use of such records, papers, files, and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished.

Sec. 296. Section 68-313, Reissue Revised Statutes of Nebraska, is amended to read:

68-313. It shall be unlawful, except as permitted by section 68-313.01 and except for purposes directly connected with the administration of general assistance, medically handicapped children's services, medical assistance, assistance to the aged, blind, or disabled, or aid to dependent children, and in accordance with the rules and regulations of the Department of Social Services Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support, for any person or persons to solicit, disclose, receive, make use of, authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or names of, any information concerning, or persons applying for or receiving such aid or assistance, directly or indirectly derived from the records, papers, files, or communications of the state, or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

Sec. 297. Section 68-621, Reissue Revised Statutes of Nebraska, is amended to read:

68-621. (1) A referendum group, as referred to in sections 68-621 to 68-630, shall consist of the employees of the state, a single political subdivision of this state, or any instrumentality jointly created by this state and any other state or states, the employees of which are or may be members of a retirement system covering such employees, except that: (a) The employees of the University of Nebraska shall constitute a referendum group; (b) the employees of a Class V school district shall constitute a referendum group; (c) all employees of the State of Nebraska who are or may be members of the school retirement system of the state School Retirement System of the State of Nebraska, including employees of institutions operated by the Board of Trustees of the Nebraska State Colleges, employees of institutions operated by the Department of Social Services, the Department of Correctional Services, and the Department of Public Institutions Department of Health and Human Services, and employees subordinate to the State Board of Education, shall

constitute a referendum group; and (d) all employees of school districts of the State of Nebraska and county superintendents, who are or may be members of the School Retirement System of the State of Nebraska, shall constitute a single referendum group.

(2) The managing authority of a political subdivision or educational institution shall be the board, committee, or council having general authority over a political subdivision, university, college, or school district whose employees constitute or are included in a referendum group; the managing authority of the state shall be the Governor; and insofar as sections 68-601 to 68-618 and 68-621 to 68-630 may be applicable to county superintendents, the term managing authority shall mean the board of county commissioners or county supervisors of the county in which the county superintendent was elected.

(3) Eligible employees as referred to in sections 68-621 to 68-630 shall mean those employees of the state or any political subdivision thereof who at or during the time of voting in a referendum as herein provided are in positions covered by a retirement system, are members of such retirement system, and were in such positions at the time of giving of the notice of such referendum, as herein required, except that no such employee shall be considered an eligible employee if at the time of such voting such employee is in a position to which the state agreement applies or if such employee is in service in a police officer or firefighter position.

(4) State agreement as referred to in sections 68-621 to 68-630 shall mean the agreement between the State of Nebraska and the designated officer of the United States of America entered into pursuant to section 68-603.

Sec. 298. Section 68-703.01, Reissue Revised Statutes of Nebraska, is amended to read:

68-703.01. ~~The Department of Social Services~~ Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support shall have authority to use any funds which may be made available through an agency of the government of the United States to reimburse any county of this state, either in whole or in part, for the following expenditures: (1) Employment of staff whose duties involve the giving or strengthening of services to children, (2) the return of any nonresident child to his or her place of residence when such child shall be found in the county, and (3) the temporary cost of board and care of a needy child who by necessity requires care in a foster home.

Sec. 299. Section 68-704, Revised Statutes Supplement, 1995, is amended to read:

68-704. ~~The Department of Social Services~~ Department of Health and Human Services shall establish an advisory committee comprised of representatives of nonprofit agencies who provide services to low-income citizens of Nebraska. The advisory group may also include interested members of the public. The advisory committee shall exist for three years after June 14, 1995.

Sec. 300. Section 68-716, Reissue Revised Statutes of Nebraska, is amended to read:

68-716. An application for medical assistance benefits shall give a right of subrogation to the ~~Department of Social Services~~ Department of Health and Human Services Finance and Support. Subject to sections 68-1038 to 68-1043, subrogation shall include every claim or right which the applicant may have against a third party when such right or claim involves money for medical care. The third party shall be liable to make payments directly to the ~~Department of Social Services~~ department as soon as he or she is notified in writing of the valid claim for subrogation under this section.

Sec. 301. Section 68-717, Reissue Revised Statutes of Nebraska, is amended to read:

68-717. ~~The Department of Social Services~~ Department of Health and Human Services and the Department of Health and Human Services Finance and Support shall assume the sole responsibility for all public assistance, including aid to families with dependent children, emergency assistance, assistance to the aged, blind, or disabled, medically handicapped children's services, commodities, and food stamps, ~~and medical assistance. On and after July 1, 1986, the department shall also assume the sole responsibility for medical assistance.~~

Sec. 302. Section 68-718, Reissue Revised Statutes of Nebraska, is amended to read:

68-718. All furniture, equipment, books, files, records, and personnel utilized by the county divisions or boards of public welfare for the administration of public assistance programs shall be transferred and

delivered to the Department of Social Services Department of Health and Human Services Finance and Support. The transferred employees shall not lose any accrued benefits or status due to the transfer and shall receive the same benefits as other state employees, including participation in the State Employees Retirement Fund.

Sec. 303. Any money in the Department of Social Services Cash Fund on January 1, 1997, shall be transferred to the Department of Health and Human Services Finance and Support Cash Fund.

Sec. 304. Section 68-1001, Reissue Revised Statutes of Nebraska, is amended to read:

68-1001. There is hereby established in and for the State of Nebraska a program to be known as assistance to the aged, blind, or disabled, which assistance shall be administered by the Department of Social Services Department of Health and Human Services. Such assistance shall consist of money payments to, medical care in behalf of, or any type of remedial care in behalf of needy individuals.

Sec. 305. Section 68-1001.01, Reissue Revised Statutes of Nebraska, is amended to read:

68-1001.01. For the purpose of adding to the security and social adjustment of former and potential recipients of assistance to the aged, blind, and disabled, and of medical assistance, the Director of Social Services Director of Health and Human Services is authorized to promulgate rules and regulations providing for services to such persons.

Sec. 306. Section 68-1002, Reissue Revised Statutes of Nebraska, is amended to read:

68-1002. In order to qualify for assistance to the aged, blind, or disabled, an individual:

(1) Must be a bona fide resident of the State of Nebraska, except that a resident of another state who enters the State of Nebraska solely for the purpose of receiving care in a home licensed by the Department of Health and Human Services Regulation and Licensure shall not be deemed to be a bona fide resident of Nebraska while such care is being provided;

(2) Is not receiving care or services as an inmate of a public institution, except as a patient in a medical institution, and if a patient in an institution for tuberculosis or mental diseases has attained the age of sixty-five years;

(3) Has not deprived himself or herself directly or indirectly of any property whatsoever for the purpose of qualifying for assistance to the aged, blind, or disabled;

(4) May receive care in a public or private institution only if such institution is subject to a state authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and

(5) Must be in need of shelter, maintenance, or medical care.

Sec. 307. Section 68-1005, Reissue Revised Statutes of Nebraska, is amended to read:

68-1005. In order to qualify for assistance to the disabled, an individual shall, in addition to the requirements set forth in section 68-1002, be considered to be disabled if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than one hundred eighty days or, in the case of a child under eighteen years of age, if he or she suffers from any medically determinable physical or mental impairment of comparable severity. In determining eligibility for assistance to the disabled, the Department of Social Services Department of Health and Human Services may adopt the determination of the Social Security Administration that an individual is or is not disabled for the purposes of the federal programs of Supplemental Security Income or Old Age Survivors' and Disability Insurance, except that if the Social Security Administration has denied benefits to an individual on the basis of the duration of the individual's disability, the department shall perform an independent medical review of such individual's disability.

Sec. 308. Section 68-1006.01, Revised Statutes Supplement, 1994, is amended to read:

68-1006.01. The Department of Social Services Department of Health and Human Services shall include in the standard of need for eligible aged, blind, and disabled persons at least forty dollars per month for a personal needs allowance if such persons reside in an alternate living arrangement.

For purposes of this section, an alternative living arrangement shall include board and room, a licensed boarding home, a licensed domiciliary

facility, a certified adult family home, a licensed residential care facility, a licensed group home for children or child-caring agency, a licensed center for the developmentally disabled, and a long-term care facility.

Sec. 309. Section 68-1007, Reissue Revised Statutes of Nebraska, is amended to read:

68-1007. In determining need for assistance to the aged, blind, or disabled, the Director of Social Services Director of Health and Human Services shall take into consideration all other income and resources of the individual claiming such assistance, as well as any expenses reasonably attributable to the earning of any such income, except as otherwise provided in this section. In making such determination with respect to any individual who is blind, there shall be disregarded the first eighty-five dollars per month of earned income plus one-half of earned income in excess of eighty-five dollars per month and, for a period not in excess of twelve months, such additional amounts of other income and resources, in the case of an individual who has an approved plan for achieving self-support, as may be necessary for the fulfillment of such plan. In making such determination with respect to an individual who has attained age sixty-five, or who is permanently and totally disabled, and is claiming aid to the aged, blind, or disabled, the Director of Social Services Director of Health and Human Services shall disregard earned income at least to the extent such income was disregarded on January 1, 1972, as provided in 42 U.S.C. 1396 a(f).

Sec. 310. Section 68-1008, Reissue Revised Statutes of Nebraska, is amended to read:

68-1008. Upon the filing of an application for assistance to the aged, blind, or disabled, the Department of Social Services Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support shall make such investigation as it deems necessary to determine the circumstances existing in each case. Each applicant and recipient shall be notified in writing as to (1) the approval or disapproval of any application, (2) the amount of payments awarded, (3) any change in the amount of payments awarded, and (4) the discontinuance of payments.

Sec. 311. Section 68-1014, Reissue Revised Statutes of Nebraska, is amended to read:

68-1014. If any guardian or conservator shall have been appointed to take charge of the property of any recipient of assistance to the aged, blind, or disabled, aid to dependent children, or medical assistance, such assistance payments shall be made to the guardian or conservator upon his or her filing with the Director of Social Services Director of Health and Human Services a certified copy of his or her letters of guardianship or conservatorship.

Sec. 312. Section 68-1015, Reissue Revised Statutes of Nebraska, is amended to read:

68-1015. For the purpose of any investigation or hearing, the Director of Social Services Director of Health and Human Services, the Director of Regulation and Licensure, and the Director of Finance and Support, through his or her authorized agents, shall have the power to compel, by subpoena, the attendance and testimony of witnesses and the production of books and papers. Witnesses may be examined on oath or affirmation.

Sec. 313. Section 68-1016, Reissue Revised Statutes of Nebraska, is amended to read:

68-1016. The Director of Social Services Director of Health and Human Services shall provide for granting an opportunity for a fair hearing before the Department of Social Services Department of Health and Human Services to any individual whose claim for assistance to the aged, blind, or disabled, aid to dependent children, emergency assistance, medical assistance, commodities, or food stamps is denied, is not granted in full, or is not acted upon with reasonable promptness. An appeal shall be taken by filing with the director a written notice of appeal setting forth the facts on which the appeal is based. The director shall thereupon, in writing, notify the appellant of the time and place for hearing which shall be not less than one week nor more than six weeks from the date of such notice. Hearings shall be before the director or his or her duly authorized agent. On the basis of evidence adduced, the director shall enter a final order on such appeal, which order shall be transmitted to the appellant.

Sec. 314. Section 68-1017, Reissue Revised Statutes of Nebraska, is amended to read:

68-1017. Any person, including vendors and providers of medical assistance and social services, who, by means of a willfully false statement or representation, or by impersonation or other device, obtains or attempts to obtain, or aids or abets any person to obtain or to attempt to obtain (1) an

assistance certificate of award to which he or she is not entitled, (2) any commodity, foodstuff, food coupon or stamp, or a payment to which such individual is not entitled or a larger payment than that to which he or she is entitled, (3) any payment made on behalf of a recipient of medical assistance or social services, or (4) any other benefit administered by the Department of Social Services Department of Health and Human Services or the Department of Health and Human Services Finance and Support, or who violates any statutory provision relating to assistance to the aged, blind, or disabled, aid to dependent children, social services, or medical assistance, commits an offense and shall upon conviction be punished as follows: (a) If the aggregate value of all funds or other benefits obtained or attempted to be obtained is less than five hundred dollars, the person so convicted shall be guilty of a Class III misdemeanor; or (b) if the aggregate value of all funds and other benefits obtained or attempted to be obtained is five hundred dollars or more, the person so convicted shall be guilty of a Class IV felony.

Sec. 315. Section 68-1019, Revised Statutes Supplement, 1994, is amended to read:

68-1019. (1) Medical assistance on behalf of recipients shall be paid directly to vendors.

(2) On behalf of recipients over sixty-five years of age, medical assistance shall include care in an institution for mental diseases.

(3) On behalf of all recipients, medical assistance shall include:

(a) Inpatient and outpatient hospital care;

(b) Laboratory and X-ray services;

(c) Nursing home services;

(d) Care home services;

(e) Home health care services;

(f) Nursing services;

(g) Clinic services;

(h) Services of practitioners licensed by the Department of Health Department of Health and Human Services Regulation and Licensure; and

(i) Such drugs, appliances, and health aids as may be prescribed by practitioners licensed by the Department of Health Department of Health and Human Services Regulation and Licensure.

(4) The Director of Social Services Director of Finance and Support shall adopt a schedule of copayments and deductibles for goods and services provided under the medical assistance program as may be allowed by Title XIX of the federal Social Security Act. The system of copayments and deductibles in the schedule shall discourage abuse of high-cost services and encourage the utilization of cost-effective services. Prior to the adoption of the schedule of copayments and deductibles, the director shall provide a report to the Governor and the Legislature outlining proposed copayments and deductibles. The report shall collect and summarize available data from other states concerning their experience with copayments and deductibles, determine if vendors may be reimbursed for copayments and deductibles resulting from a recipient's inability to pay, evaluate the collectability of copayments and deductibles, and assess the effect of copayments and deductibles on recipients, vendors, access to and availability of care, and utilization of affected medical assistance program services. The report shall include data from Nebraska as it becomes available. The report shall also provide information as to other cost-containment mechanisms which have been implemented or proposed by the Department of Social Services Department of Health and Human Services Finance and Support for the fiscal year. The report shall be provided to the Governor and the Legislature by December 1 of each year. No schedule of copayments and deductibles shall be put into effect until July 1 following the report, except that for the first year the schedule shall be put into effect by April 1. A vendor shall be responsible for collecting any applicable copayment or deductible from the recipient.

(5) The Director of Social Services Director of Finance and Support shall provide limits as to the amount, duration, and scope of services and goods recipients may receive under the medical assistance program. For purposes of providing limits as to the amount, duration, and scope of services and goods recipients may receive under the medical assistance program, the Department of Social Services Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations. The limits adopted shall in all respects comply with applicable provisions of Title XIX of the federal Social Security Act and the related federal regulations, as they may be amended from time to time. Prior to the adoption of such rules and regulations, the director shall provide a report to the Governor and the Legislature outlining proposed limits. Such report shall be provided to the Governor and the Legislature by December 1 of each year. No rules or regulations to implement such limits shall be put into effect until April 1

following the report.

(6) No vendor shall advertise or promote through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that such vendor will waive the collection of all or any portion of any copayment or deductible established pursuant to subsection (4) of this section.

Sec. 316. Section 68-1019.01, Revised Statutes Supplement, 1994, is amended to read:

68-1019.01. (1) In developing the proposed limits as to amount, duration, and scope of services and goods recipients may receive under the medical assistance program, the ~~Director of Social Services~~ Director of Finance and Support shall consider the effect such limits will have on the ability of such recipients to maintain their health, to live independently outside of medical institutions, and to engage in employment. The director shall also consider the impact such limits will have on short-term and long-term savings of expenditures to the medical assistance program.

(2) The director shall include in the report required under section 68-1019 the philosophy, standards, and criteria used to develop the proposed limits for amount, duration, and scope taking into consideration the criteria outlined in subsection (1) of this section and any other criteria as may be determined by the director.

Sec. 317. Section 68-1019.02, Revised Statutes Supplement, 1994, is amended to read:

68-1019.02. For the fiscal year beginning July 1, 1993, the Department of Social Services and, on or after January 1, 1997, the Department of Health and Human Services Finance and Support may initiate the following limits as to amount, duration, and scope of services or goods recipients may receive under the medical assistance program:

(1) Chiropractic services for all eligible groups: Limit the number of manual manipulations to eighteen treatments in a five-month period and limit coverage of stabilization of care to one visit per month;

(2) Podiatric services for all eligible groups: Reduce payment by twelve percent for certain surgical procedures if done in a hospital outpatient setting rather than in the office of a podiatrist;

(3) Occupational therapy, physical therapy, and speech, hearing, and language therapy for adults: Limit coverage of therapy provided by home health agencies and emphasize an increase in independent therapy by these health care providers;

(4) Limit amount of payments for ventilator-dependent recipients to the cost of care of average institutional costs and limit other in-home nursing costs to the highest case-mix level per diem for nursing facilities;

(5) Dental services for adults: Eliminate coverage of cast partial dentures and eliminate coverage of partial dentures except to replace front teeth;

(6) Visual care: All routine eye exams to be billed at the intermediate level of care, set maximum payment levels for eyeglass lenses rather than pay laboratory invoice costs, establish medical necessity criteria for eyeglass tints and UV coating, and establish a selection of frame styles coverable;

(7) Durable medical equipment: Reduce payment levels for equipment and supplies, simplify policies and procedures for converting durable medical equipment rental to purchase, and eliminate future coverage of external powered prosthetic devices;

(8) Hearing aids: Reduce hearing aid dispensing fees;

(9) Further expand the mandate to use bioequivalent generic drugs;

(10) Transportation services: Eliminate transportation to non-medicaid-coverable services except for transportation to adult day care facilities; reimbursements and lodging when provided through a hospital shall be included as a medical transportation service under the medical assistance program; and set taxi reimbursement at seventy-five percent of customary charge; and

(11) Eliminate coverage of mileage and conference fees for home-based service providers providing outpatient psychiatric services for adults.

Sec. 318. Section 68-1019.03, Revised Statutes Supplement, 1994, is amended to read:

68-1019.03. The ~~Department of Social Services~~ Department of Health and Human Services Finance and Support shall develop a mechanism to monitor the effect of the limitations imposed by sections 68-1019 to 68-1019.02 which shall include to the extent possible a report of the extent of the shifting by recipients from services which are no longer covered to other services. The report shall include to the extent possible the amount of such shifting and



the costs. The report shall be provided to the Governor and the Legislature.

Sec. 319. Section 68-1019.04, Revised Statutes Supplement, 1994, is amended to read:

68-1019.04. The Department of Social Services Department of Health and Human Services Finance and Support shall restrict, to the extent possible, each medical assistance recipient to a single pharmacy for purposes of monitoring the number of prescriptions utilized by the recipient.

Sec. 320. Section 68-1019.05, Revised Statutes Supplement, 1994, is amended to read:

68-1019.05. (1) The Director of Social Services Director of Finance and Support shall consult with Nebraska pharmacists and pharmaceutical companies and others interested in the issue and shall establish a plan to reduce pharmaceutical expenditures under the medical assistance program. The Department of Social Services Department of Health and Human Services Finance and Support shall implement a point-of-sale verification system for pharmaceuticals for medical assistance recipients.

(2) The department shall undertake efforts to the extent possible to provide for managed care for medical assistance recipients in all areas of the state. The purpose of such managed care efforts shall be to provide medical assistance recipients those services which are needed in a prudent and nonfraudulent manner.

(3) It is the intent of the Legislature that the management of the medical assistance program through managed care, point of sale for drugs, and other cost-containment initiatives shall result in additional savings for the 1994-1995 biennial budget of at least one million seven hundred thousand dollars.

Sec. 321. Section 68-1019.06, Revised Statutes Supplement, 1994, is amended to read:

68-1019.06. The Director of Social Services Director of Finance and Support shall report to the Governor and the Legislature on initiatives for welfare reform in Nebraska. The report shall identify ways to provide individuals and families with temporary support needed for those individuals who are not capable of being self-sufficient. The report shall identify ways to promote self-sufficiency and shall include, but not be limited to, options such as:

- (1) Training and wage subsidy programs;
- (2) Job-search programs;
- (3) Community job programs;
- (4) Increasing earned income and savings limits by recipients;
- (5) Programs to encourage teenage parents to stay in school;
- (6) Limitations on the length of public assistance benefits;
- (7) Other mechanisms to further welfare reform by making welfare transitional for those who are able to work; and
- (8) Ways to contain additional costs.

Sec. 322. Section 68-1019.08, Revised Statutes Supplement, 1994, is amended to read:

68-1019.08. The Department of Social Services Department of Health and Human Services Finance and Support shall seek a waiver of federal requirements that a copayment or deductible may not be paid by a public assistance recipient if the recipient makes a declaration that he or she is not able to pay.

Sec. 323. Section 68-1020, Revised Statutes Supplement, 1995, is amended to read:

68-1020. (1) Medical assistance shall be paid on behalf of dependent children, aged persons, blind individuals, and disabled individuals, as defined in sections 43-504 and 68-1002 to 68-1005, and on behalf of all individuals less than twenty-one years of age who are eligible under section 1905(a) of the federal Social Security Act, as amended.

(2) The Director of Social Services Director of Finance and Support shall adopt and promulgate rules and regulations governing provision of such medical assistance benefits to qualified individuals:

(a) Who are presumptively eligible as allowed under 42 U.S.C. 1396a, as amended; or

(b) Who have income at or below one hundred fifty percent of the Office of Management and Budget income poverty guidelines, without regard to resources, including children up to such age as allowed under 42 U.S.C. 1396a, as amended.

Sec. 324. Section 68-1021, Revised Statutes Supplement, 1994, is amended to read:

68-1021. For the purpose of paying medical assistance as defined in sections 68-1002, 68-1006, and 68-1018 to 68-1025, the State of Nebraska hereby accepts and assents to all applicable provisions of Title XIX of an Act

of Congress identified as H.R. 6675, 89th Congress, approved July 30, 1965. The Director of Social Services Director of Finance and Support is authorized to promulgate rules and regulations, to enter into agreements, to adopt fee schedules with regard to medical assistance benefits, rehabilitation services, and any other remedial services, and to adopt copayments and deductibles with respect to such benefits and services if the requirements of subsection (4) of section 68-1019 are met.

Sec. 325. Section 68-1023, Reissue Revised Statutes of Nebraska, is amended to read:

68-1023. The Department of Social Services Department of Health and Human Services Finance and Support may contract with the agencies administering in the State of Nebraska, Health Insurance for the Aged, identified as Public Law 89-97, 89th Congress, or with any other domestic agency or corporation licensed by the Department of Insurance to engage in the insurance business in the State of Nebraska, to act as fiscal agents for the Department of Social Services Department of Health and Human Services Finance and Support and to make payments to vendors providing medical assistance authorized under sections 68-1018 to 68-1025.

Sec. 326. Section 68-1026, Reissue Revised Statutes of Nebraska, is amended to read:

68-1026. The application for medical assistance benefits under sections 68-1018 to 68-1025 shall constitute an automatic assignment of the rights specified in this section to the Department of Social Services Department of Health and Human Services Finance and Support effective from the date of eligibility for such benefits. The assignment shall include the rights of the applicant or recipient and also the rights of any other member of the assistance group for whom the applicant or recipient can legally make an assignment.

Pursuant to this section and subject to sections 68-1038 to 68-1043, the applicant or recipient shall assign to the department any rights to medical care support available to him or her or to other members of the assistance group under an order of a court or administrative agency and any rights to pursue or receive payments from any third party liable to pay for the cost of medical care and services arising out of injury, disease, or disability of the applicant or recipient or other members of the assistance group which otherwise would be covered by medical assistance benefits. Medicare benefits shall not be assigned pursuant to this section. Benefits assigned to the department by operation of this section may be directly reimbursable to the department by liable third parties, as provided by rule or regulation of the department, when prior notification of the assignment has been made to the liable third party.

Sec. 327. Section 68-1030, Revised Statutes Supplement, 1994, is amended to read:

68-1030. Under the authority provided in the Managed Care Plan Act and section 68-1021, the Director of Social Services Director of Finance and Support may enter into contracts on a bid or negotiated basis with vendors to provide goods and services on behalf of recipients of medical assistance as set forth in section 68-1019. Such contracts may provide for the method of payment, including, but not limited to, a negotiated reimbursement rate, fee-for-service, capitation, retainer, prepaid, or other basis. Such contracts may also be entered into with health maintenance organizations.

Sec. 328. Section 68-1031, Revised Statutes Supplement, 1994, is amended to read:

68-1031. The Department of Social Services Department of Health and Human Services Finance and Support may limit the offering of a contract under section 68-1030 to a specific geographic area. When the department contracts for a specific type of service covered under section 68-1019, in a specific geographic area, reimbursement for such service may be limited to those vendors contracting with the department. When reimbursement is limited to contracting vendors, nothing in sections 68-1029 to 68-1036 shall be construed to require noncontracting vendors to provide services for medical assistance recipients.

Sec. 329. Section 68-1033, Reissue Revised Statutes of Nebraska, is amended to read:

68-1033. Two or more vendors of health care services may enter into agreements to contract as a unit, with the Director of Social Services Director of Finance and Support, for the delivery of health services under sections 68-1029 to 68-1036. Such agreements may allow for joint administration, joint risk sharing, coordinated provision of health services, coordinated utilization review, referral relationships between vendors in the unit, and other approaches which will promote the goal of cost-effective delivery of health care services. To be certified as a unit eligible to

negotiate contracts for health services, such unit shall file an application with the Director of Social Services director, on a form prescribed by the Department of Social Services Department of Health and Human Services Finance and Support. Included in such application shall be a designation of the person or persons entitled to negotiate on behalf of the members of the unit and the extent to which such negotiations shall bind such members.

Sec. 330. Section 68-1034, Reissue Revised Statutes of Nebraska, is amended to read:

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 Department of Health and Human Services Finance and Support, the Director of Social Services Director of Finance and Support 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. The decision of the director may be appealed by the applicant, and the appeal shall be in accordance with the Administrative Procedure Act. The Department of Social Services Department of Health and Human Services Finance and Support 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. 331. Section 68-1035, Reissue Revised Statutes of Nebraska, is amended to read:

68-1035. Actions taken pursuant to sections 68-1029 to 68-1036 shall not be subject to the Consumer Protection Act and sections 59-801 to 59-829, and 59-1601 to 59-1623. It is the intention of the Legislature that vendors and contracts complying with sections 68-1029 to 68-1036 shall be exempted from the application of federal antitrust laws. Nothing contained in sections 68-1029 to 68-1036 shall prohibit contracts between individual vendors and the Department of Social Services Department of Health and Human Services Finance and Support.

Sec. 332. Section 68-1035.01, Revised Statutes Supplement, 1994, is amended to read:

68-1035.01. The Department of Social Services Department of Health and Human Services Finance and Support shall enter into an interagency agreement with the Department of Public Institutions Department of Health and Human Services for assistance in the development of rules and regulations for specialized developmental disability services pursuant to the medical assistance program and for assistance to administer medical assistance funds designated for specialized developmental disability services pursuant to sections 68-1018 to 68-1035.

Sec. 333. Section 68-1036, Reissue Revised Statutes of Nebraska, is amended to read:

68-1036. The Department of Social Services Department of Health and Human Services Finance and Support may adopt, promulgate, amend, and repeal rules and regulations regarding the powers conferred by sections 68-1029 to 68-1036, subject to the Administrative Procedure Act.

Sec. 334. Section 68-1036.02, Revised Statutes Supplement, 1994, is amended to read:

68-1036.02. (1) The estate of a decedent who has received medical assistance benefits under the medical assistance program established under section 68-1018 shall be indebted to the Department of Social Services Department of Health and Human Services Finance and Support for the total amount paid for medical assistance on behalf of the decedent if:

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

(b) The decedent resided in a medical institution and, at the time of institutionalization or application for medical assistance, whichever is later, the department determines that the decedent could not have reasonably been expected to be discharged and resume living at home. For purposes of this section, medical institution shall mean a skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, nursing facility, or inpatient hospital.

(2) No debt to the department shall exist if the decedent is survived (a) by a spouse or (b) by a child who either is under twenty-one years of age or is blind or totally and permanently disabled as defined by the Supplemental Security Income criteria.

(3) The debt shall include the total amount of medical assistance provided when the recipient was fifty-five years of age or older or during a

period of institutionalization as described in subsection (1) of this section and shall not include interest.

(4) In any probate proceedings in which the department has filed a claim under this section, no additional evidence of foundation shall be required for the admission of the department's payment record supporting its claim if the payment record bears the seal of the department, is certified as a true copy, and bears the signature of an authorized representative of the department.

(5) The department may waive or compromise its claim, in whole or in part, if the department determines that enforcement of the claim would not be in the best interests of the state or would result in undue hardship.

(6) The department may adopt and promulgate rules and regulations to carry out this section.

Sec. 335. Section 68-1036.03, Revised Statutes Supplement, 1994, is amended to read:

68-1036.03. The Department of Social Services Department of Health and Human Services Finance and Support may garnish the wages, salary, or other employment income of a person for the costs of health services provided to a child who is eligible for medical assistance pursuant to the medical assistance program established pursuant to sections 68-1018 to 68-1025 if:

(1) The person is required by court or administrative order to provide health care coverage for the costs of such services; and

(2) The person has received payment from a third party for the costs of such services but has not used the payment to reimburse either the other parent or guardian or the provider of such services.

The amount garnished shall be limited to the amount necessary to reimburse the department for its expenditures for the costs of such services under the medical assistance program. Any claim for current or past-due child support shall take priority over a claim for the costs of health services.

Sec. 336. Section 68-1038, Revised Statutes Supplement, 1994, is amended to read:

68-1038. For purposes of sections 68-1038 to 68-1043:

(1) Assets shall mean property which is not exempt, under rules and regulations of the director, from consideration in determining eligibility for medical assistance;

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

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

(4) Department shall mean the Department of Social Services Department of Health and Human Services;

(5) Director shall mean the Director of Social Services Director of Health and Human Services;

(6) Home and community-based services shall mean services furnished under home and community-based waivers as defined in Title XIX of the federal Social Security Act, as amended, 42 U.S.C. 1396;

(7) Medical assistance shall mean assistance provided pursuant to the program established by section 68-1018;

(8) Qualified applicant shall mean a person (a) who applies for medical assistance on or after July 9, 1988, (b) who is under care in a state-licensed hospital, skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, nursing facility, domiciliary facility, residential care facility, or center for the developmentally disabled, as such terms are defined in section 71-2017.01, or an adult family home certified by the department or is receiving home and community-based services, and (c) whose spouse is not under such care or receiving such services and is not applying for or receiving medical assistance;

(9) Qualified recipient shall mean a person (a) who has applied for medical assistance before July 9, 1988, and is eligible for such assistance, (b) who is under care in a facility certified to receive medical assistance funds under sections 68-1018 to 68-1036 or is receiving home and community-based services, and (c) whose spouse is not under such care or receiving such services and is not applying for or receiving medical assistance; and

(10) Spouse shall mean the spouse of a qualified applicant or qualified recipient.

Sec. 337. Section 68-1043, Reissue Revised Statutes of Nebraska, is amended to read:

68-1043. ~~The Department of Social Services~~ Department of Health and Human Services shall furnish to each qualified applicant for and each qualified recipient of medical assistance a clear and simple written statement explaining the entitlements provided in section 68-1039.

Sec. 338. Section 68-1047, Revised Statutes Supplement, 1995, is amended to read:

68-1047. (1) A provision in a trust created after June 10, 1993, purporting to make assets or income unavailable to a beneficiary if the beneficiary applies for or is determined eligible for any public assistance program administered by the ~~Department of Social Services~~ Department of Health and Human Services or the Department of Health and Human Services Finance and Support, or both, including the medical assistance program, shall be void and unenforceable, except that a court of competent jurisdiction may order, for good cause shown, that trust assets or income be set aside for specific goods and services not covered by such public assistance program. Specific goods and services not covered by such public assistance program may include such goods and services as are necessary for rehabilitation of the beneficiary or for any special needs of the beneficiary. Notice of such a proceeding before a court of competent jurisdiction shall be given to the department which shall have standing to appear at such proceeding as an interested party. This subsection shall not apply to trusts created for beneficiaries from assets of a person not legally responsible for the care and maintenance of the beneficiary.

(2) The following trusts, created after June 10, 1993, shall become revocable to the extent of the transferor-beneficiary's interest in the trust, by operation of law, upon the filing of an application by or on behalf of such beneficiary for any public assistance program administered by the department, including the medical assistance program:

(a) Any irrevocable trust established by or on behalf of a person from such person's own assets, if such person is a beneficiary of the trust; and

(b) Any irrevocable trust established on behalf of a person from the proceeds of litigation or settlement of claims against a party or parties brought by or on behalf of such person.

Such revocability shall remain in effect only for such time as the application for public assistance is pending or benefits are being paid.

(3) The provisions of subsection (2) of this section shall not affect the federal income, gift, or estate tax status of any charitable remainder or charitable lead trust that is qualified under any of the provisions of the Internal Revenue Code.

Sec. 339. Section 68-1050, Revised Statutes Supplement, 1994, is amended to read:

68-1050. For purposes of the Managed Care Plan Act:

(1) Commission shall mean the Managed Care Commission established by section 68-1052;

(2) Consumer protection system shall mean a system which includes:

(a) Ensuring consumer protection from provider's financial conflicts of interest in managed care arrangements;

(b) Accommodation of consumer choice in the selection of providers within the scope of efficient care management standards;

(c) Allowance for the designation of appropriate specialists as primary care providers for individuals with chronic conditions requiring specialty care;

(d) Ensuring the confidentiality of consumer records; and

(e) Provision for access to an ombudsman from whom recipients may receive assistance in the enforcement of the protections provided by the act and inclusion of a hearing process to resolve recipient appeals of organized decisions;

(3) Department shall mean the Department of Social Services ~~Department of Health and Human Services~~ Regulation and Licensure;

(4) Director shall mean the Director of Social Services ~~Director of Regulation and Licensure~~;

(5) Disproportionate-share hospital shall mean a hospital which, because of geographic location or for other reasons, serves a larger number of program recipients and other low-income individuals than other hospitals;

(6) Managed care system shall mean a system for providing health care services which integrates both the delivery and the financing of health care services in an attempt to provide access to medical services while containing the cost and use of medical care;

(7) Participating provider shall mean a health care provider that

provides or arranges for medical assistance services to program recipients directly or indirectly under a managed care system;

(8) Plan shall mean the plan for implementing a managed care system required by sections 68-1056 to 68-1061;

(9) Program shall mean the medical assistance program established by sections 68-1018 to 68-1025;

(10) Program recipient shall mean any person eligible for or receiving benefits under the program; and

(11) Quality protection system shall mean a system which includes:

(a) Provision for utilization review and appeals to be conducted by similarly trained and licensed providers;

(b) Full access by recipients and providers to criteria for health care management and clinical practices used in evaluating care plans;

(c) Requirements for internal and external quality assurance, including measures for performance-based outcomes;

(d) Ensuring a substantial effort by managed care organizations to include existing specialty providers when establishing plans; and

(e) Creation of appropriate financial risks and incentives for providers that are consistent with standards for performance-based quality of care.

Sec. 340. Section 68-1053, Revised Statutes Supplement, 1994, is amended to read:

68-1053. The commission shall consist of ~~fifteen~~ sixteen members appointed on or before July 30, 1993. The Governor or his or her designee, the ~~Director of Social Services~~ Director of Health and Human Services, the ~~Director of Finance and Support~~, and the ~~Director of Health~~ Director of Regulation and Licensure shall be members of the commission. The ~~Director of Health~~ Director of Regulation and Licensure shall serve as the chairperson of the commission. The Governor shall appoint additional members, including one physician licensed under the Uniform Licensing Law, one representative of one urban hospital, one representative of one rural hospital, one representative of businesses and industries in the state, one representative of the insurance industry, one representative of the home health care industry, and six representatives of the public. The representatives of the public shall represent a variety of perspectives and may include other health care professionals not specifically represented on the commission. At least three members of the public shall be public assistance recipients or advocates for persons receiving public assistance.

All members of the commission shall have a demonstrated knowledge of health care in Nebraska and of managed care programs and issues. All appointed members of the commission shall be residents of the state. In making the appointments and filling any vacancies pursuant to section 68-1054, the Governor shall consult with professional and other interested organizations.

The term of each member shall be four years, except that of the initial members appointed by the Governor, two shall be appointed for terms of two years and three for terms of three years as designated by the Governor. Members shall serve until their successors are appointed and qualified.

After submission of the plan pursuant to section 68-1051 or 68-1065, the commission shall continue in existence until April 1, 1997, and shall review and evaluate the implementation of the managed care system authorized pursuant to the Managed Care Plan Act. The commission shall assess the effectiveness of such system and provide recommendations to the department that may improve such system.

Sec. 341. Section 68-1101, Reissue Revised Statutes of Nebraska, is amended to read:

68-1101. ~~There is hereby created the Department on Aging Advisory Committee. Commencing on August 30, 1987, the The Department of Health and Human Services Advisory Committee on Aging is created.~~ The committee shall consist of twelve members, one from each of the planning-and-service areas as designated in the Nebraska Community Aging Services Act and the remaining members from the state at large.

Any member serving on the Department on Aging Advisory Committee advisory committee on August 30, 1987, January 1, 1997, shall continue to serve until his or her term expires. As the terms of the members expire, the Governor shall, on or before March 1 of such year, appoint or reappoint a member of the committee for a term of four years. Each area agency on aging serving a designated planning-and-service area shall recommend to the Governor the names of persons qualified to represent the senior population of the planning-and-service area. Any vacancy on the committee shall be filled for the unexpired term. A vacancy shall exist when a member of the committee ceases to be a resident of the planning-and-service area from which he or she was appointed or reappointed. The members to be appointed to represent a

planning-and-service area shall be residents of the planning-and-service area from which they are appointed. Members of the advisory committee shall not be elected public officials or staff of the Department on Aging Department of Health and Human Services or of an area agency on aging.

Sec. 342. Section 68-1103, Reissue Revised Statutes of Nebraska, is amended to read:

68-1103. Members of the Department on Aging Advisory Committee Department of Health and Human Services Advisory Committee on Aging shall meet within thirty days after their appointment to select from the members of the committee a chairperson, and such other officers as committee members deem necessary, who shall serve for a period of two years. The committee shall elect a new chairperson every two years thereafter. The committee shall meet at regular intervals at least once each year and may hold special meetings at the call of the chairperson or at the request of a majority of the members of the committee. The committee shall meet at the seat of government or such other place as the members of the committee may designate.

Sec. 343. Section 68-1104, Reissue Revised Statutes of Nebraska, is amended to read:

68-1104. The Department of Health and Human Services Advisory Committee on Aging Department on Aging Advisory Committee shall advise the Department on Aging Department of Health and Human Services regarding:

(1) The collection of facts and statistics and special studies of conditions and problems pertaining to the employment, health, financial status, recreation, social adjustment, or other conditions and problems pertaining to the general welfare of the aging of the state;

(2) Recommendations to state and local agencies serving the aging for purposes of coordinating such agencies' activities, and reports from the various state agencies and institutions on matters within the jurisdiction of the committee;

(3) The latest developments of research, studies, and programs being conducted throughout the nation on the problems and needs of the aging;

(4) The mutual exchange of ideas and information on the aging between federal, state, and local governmental agencies, private organizations, and individuals; and

(5) Cooperation with agencies, federal, state, and local or private organizations, in administering and supervising demonstration programs of services for aging designed to foster continued participation of older people in family and community life and to prevent insofar as possible the onset of dependency and the need for long-term institutional care.

The committee shall have the power to create special committees to undertake such special studies as members of the committee shall authorize and may include noncommittee members who are qualified in any field of activity related to the general welfare of the aging in the membership of such committees.

Sec. 344. Section 68-1105, Reissue Revised Statutes of Nebraska, is amended to read:

68-1105. The members of the Department on Aging Advisory Committee Department of Health and Human Services Advisory Committee on Aging, and noncommittee members serving on special committees, shall receive no compensation for their services other than reimbursement for actual and necessary expenses as provided in sections 81-1174 to 81-1177. for state employees. Committee expenses and any office expenses shall be paid from funds made available to the committee by the Legislature.

Sec. 345. Section 68-1204, Revised Statutes Supplement, 1994, is amended to read:

68-1204. For the purpose of providing or purchasing social services described in section 68-1202, the state hereby accepts and assents to all applicable provisions of the federal Social Security Act, as amended. The Director of Social Services Director of Health and Human Services may adopt and promulgate rules and regulations, enter into agreements, and adopt fee schedules with regard to social services described in section 68-1202.

The Department of Social Services shall grant to the Department of Public Institutions the authority to develop Department of Health and Human Services shall adopt and promulgate rules and regulations and to administer funds under Title XX of the federal Social Security Act, as amended, designated for specialized developmental disability services.

Sec. 346. Section 68-1205, Reissue Revised Statutes of Nebraska, is amended to read:

68-1205. The matching funds required to obtain the federal share of the services described in section 68-1202 may come from either state, county, or donated sources in amounts and other provisions to be determined by the Director of Social Services Director of Health and Human Services.

Sec. 347. Section 68-1206, Revised Statutes Supplement, 1995, is amended to read:

68-1206. The Director of Social Services Director of Health and Human Services shall administer the program of social services in this state. The Department of Social Services Department of Health and Human Services may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the department could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services.

In determining the rate or rates to be paid by the department for child care as defined in section 43-2605, the director shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule shall be effective on October 1 of every year and shall be revised by the director annually.

Sec. 348. Section 68-1207, Reissue Revised Statutes of Nebraska, is amended to read:

68-1207. The Director of Social Services Director of Health and Human Services shall supervise all public child welfare services as described by law. The director shall establish and maintain caseloads to carry out child welfare services which provide for adequate, timely, and in-depth investigations and services to children and families. In establishing the standards for such caseloads, the director shall include the workload factors that may differ due to geographic responsibilities, office location, and the travel required to provide a timely response in the investigation of abuse and neglect, the protection of children, and the provision of services to children and families in a uniform and consistent statewide manner. The director shall consult with the appropriate employee representative in establishing such standards. To carry out the provisions of this section, the Legislature shall provide funds for additional staff. ~~In order to achieve the established standards by January 1994, the Department of Social Services shall add one-fourth of the additional staff annually beginning in fiscal year 1996-97.~~

Sec. 349. Section 68-1207.01, Reissue Revised Statutes of Nebraska, is amended to read:

68-1207.01. In each even-numbered year, the Director of Social Services Director of Health and Human Services shall provide a report to the Legislature and Governor outlining the caseloads, the factors considered in their establishment, and the fiscal resources necessary for their maintenance. Such report shall include a comparison of caseloads established by the director with the workload standards recommended by national child welfare organizations along with the amount of fiscal resources necessary to maintain such caseloads in Nebraska.

Sec. 350. Section 68-1210, Reissue Revised Statutes of Nebraska, is amended to read:

68-1210. Notwithstanding any other provision of law, the Director of Social Services Director of Health and Human Services shall have the authority through rule or regulation to establish payment rates for children with special needs who are in foster care and in the custody of the Department of Social Services Department of Health and Human Services.

Sec. 351. Section 68-1402, Reissue Revised Statutes of Nebraska, is amended to read:

68-1402. The Director of Social Services Director of Health and Human Services shall establish and administer a program for the medical care of persons of all ages with genetically handicapping conditions, including cystic fibrosis, hemophilia, and sickle cell disease, through physicians and health care providers that are qualified pursuant to the regulations of the Department of Social Services Department of Health and Human Services to provide such medical services. The director shall adopt such rules and regulations pursuant to the Administrative Procedure Act, as are necessary for the implementation of the provisions of ~~sections 68-1401 to 68-1406~~ the Genetically Handicapped Persons Act. The director shall establish priorities for the use of funds and provision of services under ~~sections 68-1401 to 68-1406~~ the Genetically Handicapped Persons Act.

Sec. 352. Section 68-1403, Reissue Revised Statutes of Nebraska, is amended to read:



68-1403. The program established under ~~sections 68-1401 to 68-1406~~ the Genetically Handicapped Persons Act, which shall be under the supervision of the Department of Social Services Department of Health and Human Services, shall include any or all of the following:

- (1) Initial intake and diagnostic evaluation;
- (2) The cost of blood transfusion and use of blood derivatives, or both;

- (3) Rehabilitation services, including reconstructive surgery;
- (4) Expert diagnosis;
- (5) Medical treatment;
- (6) Surgical treatment;
- (7) Hospital care;
- (8) Physical therapy;
- (9) Occupational therapy;
- (10) Materials and prescription drugs;
- (11) Appliances and their upkeep, maintenance, and care;
- (12) Maintenance, transportation, or care incidental to any other form of services; and
- (13) Appropriate and sufficient staff to carry out the provisions of ~~sections 68-1401 to 68-1406~~ the Genetically Handicapped Persons Act.

Sec. 353. Section 68-1405, Reissue Revised Statutes of Nebraska, is amended to read:

68-1405. The Department of Social Services Department of Health and Human Services shall establish uniform standards of financial eligibility for the treatment services under the program established under ~~sections 68-1401 to 68-1406~~ the Genetically Handicapped Persons Act, including a uniform formula for the payment of services by physicians and health care providers rendered under such program and such formula for payment shall provide for reimbursement at rates similar to those set by other federal and state programs, and private entitlements. The Department of Social Services Department of Health and Human Services standards for financial eligibility shall be the same as those established for Medically Handicapped Children's Services, as administered by the Department of Social Services Department of Health and Human Services. All county or district health departments shall use the uniform standards for financial eligibility and uniform formula for payment established by the department. All payments shall be used in support of the program for services established under ~~sections 68-1401 to 68-1406~~ the act.

The department shall establish payment schedules for services not later than June 30, 1980.

Sec. 354. Section 68-1503, Reissue Revised Statutes of Nebraska, is amended to read:

68-1503. As used in ~~sections 68-1501 to 68-1519~~ the Disabled Persons and Family Support Act, unless the context otherwise requires:

(1) Department shall mean the Department of Social Services Department of Health and Human Services;

(2) Disabled family member or disabled person shall mean a person who has a medically determinable severe, chronic disability which: (a) Is attributable to a mental or physical impairment or combination of mental and physical impairments; (b) is likely to continue indefinitely; (c) results in substantial functional limitations in two or more of the following areas of major life activity: (i) Self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, (vii) work skills or work tolerance, and (viii) economic sufficiency; and (d) reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, vocational rehabilitation, or other services which are of lifelong or extended duration and are individually planned and coordinated; and

(3) Other support programs shall mean all forms of local, state, or federal assistance, grants-in-aid, educational programs, or support provided by public or private funds for disabled persons or their families.

Sec. 355. Section 68-1514, Reissue Revised Statutes of Nebraska, is amended to read:

68-1514. The Director of Social Services Director of Health and Human Services shall provide an opportunity for a fair hearing before the department to any family or disabled person who is denied support pursuant to ~~sections 68-1501 to 68-1519~~ the Disabled Persons and Family Support Act.

Sec. 356. Section 68-1711, Revised Statutes Supplement, 1995, is amended to read:

68-1711. State agencies, including the Department of Social Services Department of Health and Human Services and the Department of Labor, which assess training options, job readiness, adult basic skills, aptitudes,

interests, workplace maturity, and career development of applicants for services shall utilize a common, comprehensive assessment tool.

Sec. 357. Section 68-1713, Revised Statutes Supplement, 1995, is amended to read:

68-1713. (1) The ~~Department of Social Services~~ Department of Health and Human Services shall submit a waiver request or requests to the United States Department of Health and Human Services and the United States Department of Agriculture as necessary for federal authorization to implement the provisions of the Welfare Reform Act. The ~~Department of Social Services~~ Department of Health and Human Services may include the provisions of sections 68-1718 to 68-1726 in its waiver requests and shall designate counties for implementation on or after July 1, 1995, of such sections for recipient families in the aid to dependent children program. It is the intent of the Legislature that such designated counties include at least one county with a population of not more than thirty-five thousand inhabitants and one county with a population of at least one hundred fifty thousand inhabitants but not more than three hundred thousand inhabitants.

The ~~Department of Social Services~~ Department of Health and Human Services shall implement the waivers approved by the United States Department of Health and Human Services or the United States Department of Agriculture, which waivers are entitled:

- (a) Permit Work Experience in Private for Profit Enterprises;
- (b) Permit Job Search to Extend Beyond Eight Weeks Each Year;
- (c) Permit Employment to be Considered a JOBS Program Component;
- (d) Make Sanctions More Stringent to Emphasize Participant Obligations;
- (e) Alternative Hearing Process;
- (f) Permit Adults in Two-Parent Households to Participate in JOBS Activities Based on Their Self-Sufficiency Needs;
- (g) Eliminate Exemptions for Individuals with Children Between the Ages of 12 Weeks and Age Six;
- (h) Providing Poor Working Families with Transitional Child Care to Ease the Transition from Welfare to Self-Sufficiency;
- (i) Require Adults in the Recipient Family to Complete and Comply with Self-Sufficiency Contracts Even Where They Do Not Have Parental Responsibility and File Only for the Children;
- (j) Provide Transitional Health Care for 24 Months After Termination of ADC;
- (k) Cap Family Benefits Based on the Number of Children in the Unit at the Time of Initial Eligibility;
- (l) Require Adults to Ensure that Children in the Family Unit Attend School;
- (m) Encourage Minor Parents to Live with Their Parents;
- (n) Establish a Resource Limit of \$5,000 for ADC Entitlement;
- (o) Exclude the Value of One Vehicle Per Family When Determining ADC Eligibility;
- (p) Exclude the Cash Value of Life Insurance Policies in Calculating Resources for ADC;
- (q) Permit the Self-Sufficiency Contract Assessment to Substitute for the Six-Month ADC Redetermination Process;
- (r) Establish Food Stamps as a Continuous Benefit with Eligibility Reevaluated with Yearly Redeterminations;
- (s) Permit Nebraska to Establish Lower Payment Levels than the Payment Levels in Effect on May 1, 1988, for Those Families Which Elect to Receive Benefits under the Time-Limited ADC, High Disregards Program;
- (t) Permit ADC Parents to Keep More of Their Earnings Before Their Welfare Grants are Reduced, except that under the high disregards program the department shall disregard one hundred dollars plus sixty percent of the remaining monthly earned income;
- (u) Disregard Financial Assistance Received Intended for Books, Tuition, or Other Self-Sufficiency Related Use;
- (v) Culture: Eliminate the 100-Hour Rule, The Quarter of Work Requirement, and The 30-Day Unemployed/Underemployed Period for ADC-UP Eligibility;
- (w) Make ADC a Time-Limited Program;
- (x) Eliminate Self-Initiated Training as a JOBS Option; and
- (y) Other Waivers: Statewide Operation of the Demonstration Project.

At the end of the first year of implementation, the department shall identify any adjustments or adaptations that may be needed before the waivers are implemented in other areas of the state. Such review shall include an evaluation of the impact of subdivisions (2)(b) and (c) of section 68-1724. The department shall implement the approved waivers in additional counties as

necessary to complete statewide implementation.

(2) The Department of Social Services Department of Health and Human Services shall (a) apply for a waiver to allow for a sliding-fee schedule for the population served by the caretaker relative program or (b) pursue other public or private mechanisms, to provide for transitional health care benefits to individuals and families who do not qualify for cash assistance. It is the intent of the Legislature that transitional health care coverage be made available on a sliding-scale basis to individuals and families with incomes up to one hundred eighty-five percent of the federal poverty level if other health care coverage is not available.

For purposes of this section, approved by the Legislature shall mean the introduction, consideration, and enactment of legislation.

Sec. 358. Section 68-1715, Revised Statutes Supplement, 1995, is amended to read:

68-1715. The Department of Social Services Department of Health and Human Services shall adopt and promulgate rules and regulations to carry out the Welfare Reform Act.

Sec. 359. Section 68-1716, Revised Statutes Supplement, 1995, is amended to read:

68-1716. (1) The Department of Social Services Department of Health and Human Services shall evaluate the impact of the Welfare Reform Act, including, but not limited to, analysis of family outcomes related to attaining or regaining and maintaining economic self-sufficiency. The evaluation shall include opportunities for meaningful recipient input. The evaluation shall begin on the date of implementation of any approved waivers, and the results shall be reported to the Governor and the Legislature annually, not later than October 1, 1996, and each October 1 thereafter through October 1, 2000.

(2) At the end of each year, the department shall also report to the Legislature the number of adults declared ineligible for cash assistance under section 68-1723 because of a parent's failure to cooperate in carrying out the terms of a self-sufficiency contract.

Sec. 360. Section 68-1717, Revised Statutes Supplement, 1995, is amended to read:

68-1717. After implementation of approved waivers as provided in section 68-1713, the Department of Social Services Department of Health and Human Services shall submit a waiver request or requests to the United States Department of Health and Human Services and the United States Department of Agriculture as necessary for federal authorization to eliminate the welfare programs entitled state supplemental assistance to the aged, blind, and disabled, aid to dependent children, food stamps, and low-income energy assistance and to create a single simplified assistance system. If federal waiver approval is granted, the various eligibility rules and processes connected to each of the public assistance programs listed in this section shall be replaced by a single, simplified set of eligibility rules and regulations adopted and promulgated by the department. Eligibility criteria for services under this section shall be the same for one-parent and for two-parent families. The department shall not implement any waiver or waivers approved under this section unless the provisions of the waiver or waivers as approved by the federal agency or agencies have been presented to and approved by the Legislature.

For purposes of this section, approved by the Legislature shall mean the introduction, consideration, and enactment of legislation.

Sec. 361. Section 68-1722, Revised Statutes Supplement, 1994, is amended to read:

68-1722. The Legislature finds that the state has responsibilities to help ensure the success of the self-sufficiency contract for each recipient. The Department of Social Services Department of Health and Human Services shall employ case management practices and supportive services to the extent necessary to facilitate movement toward self-sufficiency within the two-year limit on participation as provided in section 68-1724.

The department may purchase case management services. It is the intent of the Legislature that any case management utilized by the department shall include standards which emphasize communication skills; appropriate interviewing techniques; and methods for positive feedback, support, encouragement, and counseling. The case management provided shall also include a recognition of family dynamics and emphasize working with all family members; shall respect diversity; shall empower individuals; and shall include recognizing, capitalizing, and building on a family's strengths and existing support network. It is the intent of the Legislature that generally a case manager would have a family caseload of no more than seventy cases.

Supportive services shall include, but not be limited to, assistance

with transportation expenses, participation and work expenses, parenting education, family planning, budgeting, and relocation to provide for specific needs critical to the recipient's or the recipient family's self-sufficiency contract. For purposes of this section, family planning shall not include abortion counseling, referral for abortion, or funding for abortion. If the state fails to meet the specific terms of the self-sufficiency contract, the two-year limit on cash assistance under section 68-1724 shall be extended for an additional period of not more than two years.

Sec. 362. Section 68-1725, Revised Statutes Supplement, 1994, is amended to read:

68-1725. The Department of Social Services ~~Department of Health and Human Services~~ may either develop an electronic benefit system for purposes of eliminating as much paper and coupon conveyance of public assistance as is practical or provide cash in lieu of coupons.

Sec. 363. Section 68-1729, Revised Statutes Supplement, 1994, is amended to read:

68-1729. The Governor shall commission a study of creating human services regions with boundaries which are common to all state agencies. The study shall review the effectiveness of the boundaries of the human services regions existing on July 16, 1994. The Governor shall assign this study to the Commissioner of Education, the ~~Director of Social Services~~ Director of Health and Human Services, the ~~Director of Health~~ Director of Regulation and Licensure, the ~~Director of Public Institutions~~ Director of Finance and Support, the Director of Economic Development, the Director of Labor, the Director of Administrative Services, ~~the Director on Aging~~, the Director of Correctional Services, the Tax Commissioner, the Probation Administrator, the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, and the Director of Policy Research. The study shall also allow for participation of other persons from the public and private sectors representing all geographical areas of Nebraska.

Sec. 364. Section 68-1730, Revised Statutes Supplement, 1995, is amended to read:

68-1730. (1) The study required by section 68-1729 shall develop a plan for the implementation of common human services region boundaries in Nebraska and for location together and integration of programs and services as appropriate to meet the needs of the population of Nebraska. A report shall be provided to the Governor and the Legislature describing these boundaries by October 15, 1995.

(2) The study and report shall address the following: (a) identification of economic centers; (b) identification of current and projected locations of major highways; (c) location of health centers; (d) location of population centers; (e) demographics; (f) cultural issues; (g) socioeconomic concerns; and (h) the advantages or disadvantages of relocating the disability determinations section from the State Department of Education to the ~~Department of Social Services~~ Department of Health and Human Services.

(3) The report shall include the following specific recommendations: (a) Human services region boundaries that are uniform and consistent; (b) a plan for implementation of the proposed human services region boundaries; (c) identification of costs or savings associated with implementation of the report recommendations; and (d) necessary legislation to implement the report recommendations.

Sec. 365. Section 68-1732, Revised Statutes Supplement, 1994, is amended to read:

68-1732. It is the intent of the Legislature that the ~~Department of Health~~ Department of Health and Human Services ~~Regulation and Licensure~~, the ~~Department of Social Services~~ Department of Health and Human Services, the State Department of Education, the ~~Department on Aging~~, the Department of Labor, the ~~Department of Public Institutions~~ Department of Health and Human Services ~~Finance and Support~~, the Office of Probation Administration, the Department of Correctional Services, and the Department of Economic Development will have integrated programs and policies when serving a common customer. Organizational mergers and operating agreements shall be developed within state government which bring together the state's community-based child-serving and family-serving resources in the areas of health care services, social services, mental health services, developmental disabilities services, juvenile justice, and education. Such actions shall eliminate the need for the public to understand the differing roles, responsibilities, and services of the agencies enumerated in this section and their affiliates.

Sec. 366. Section 68-1736, Revised Statutes Supplement, 1995, is amended to read:

68-1736. The Legislature finds that welfare reform and the prevention of poverty are the responsibility of both the public and the

private sectors and that low-income Nebraskans will best attain and maintain economic self-sufficiency through the job market. The Governor shall establish the Governor's Roundtable composed of current and former welfare recipients and leaders from business, industry, labor, and government. The Governor's Roundtable and the community colleges, state colleges, University of Nebraska, Department of Economic Development, State Department of Education, Department of Labor, Department of Revenue, and Department of Social Services Department of Health and Human Services shall analyze the job needs and training needs of business, industry, and labor in Nebraska. On the basis of this analysis, the Governor's Roundtable shall recommend processes, strategies, and resources for linking the unemployed and underemployed with training or jobs that pay a living wage. The Governor's Roundtable shall also make recommendations pertaining to job creation, tax incentives, unemployment compensation, education and training programs, child care, and health care to assist low-income Nebraskans to attain and maintain economic self-sufficiency. Such recommendations, including any necessary legislation, shall be presented to the Governor and the Legislature not later than December 1, 1997.

Sec. 367. Section 69-2426, Revised Statutes Supplement, 1994, is amended to read:

69-2426. (1) Dealers of firearms shall distribute to all purchasers information developed by the Department of Health Department of Health and Human Services regarding the dangers of leaving loaded firearms unattended around children.

(2) There is hereby created the Firearm Information Fund. Private contributions shall be credited by the State Treasurer to such fund for the implementation of the provisions of this section.

Sec. 368. Section 70-101, Revised Statutes Supplement, 1994, is amended to read:

70-101. Notwithstanding any other provision of law regarding confidentiality of records, every district or corporation organized under Chapter 70 shall, upon request, furnish to any county attorney, any authorized attorney as defined in section 42-347, or the Department of Social Services Department of Health and Human Services Finance and Support a utility service subscriber's name, social security number, and mailing and residence addresses only for the purposes of establishing and collecting child, spousal, and medical support and of conducting reviews under sections 43-512.12 to 43-512.18. Such information shall be used for no other purpose. An action may be filed in district court to enforce this section. For purposes of this section, utility service shall mean electrical, gas, water, telephone, garbage disposal, or waste disposal service.

Sec. 369. Section 70-1603, Reissue Revised Statutes of Nebraska, is amended to read:

70-1603. No municipal utility owned and operated by a village furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless such utility first gives written notice by mail to any subscriber whose service is proposed to be terminated at least seven days prior to termination. As to any subscriber who has previously been identified as a welfare recipient to the utility by the Department of Social Services Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the department.

Sec. 370. Section 70-1605, Reissue Revised Statutes of Nebraska, is amended to read:

70-1605. No public or private utility company, other than a municipal utility owned and operated by a village, furnishing water, natural gas, or electricity at retail in this state shall discontinue service to any domestic subscriber for nonpayment of any past-due account unless the utility company first gives notice by first-class mail or in person to any subscriber whose service is proposed to be terminated. If notice is given by first-class mail, such mail shall be conspicuously marked as to its importance. Service shall not be discontinued for at least seven days after notice is sent or given. Holidays and weekends shall be excluded from the seven days. As to any subscriber who has previously been identified as a welfare recipient to the company by the Department of Social Services Department of Health and Human Services, such notice shall be by certified mail and notice of such proposed termination shall be given to the department.

Sec. 371. Section 71-101, Revised Statutes Supplement, 1995, is amended to read:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1301 to 71-1354, and 71-2801 to 71-2822 shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context

otherwise requires:

(1) Board of examiners or board shall mean one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed under the Uniform Licensing Law;

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

(4) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(5) Whenever a particular gender is used, it shall be construed to include both the masculine and the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure shall mean permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so.

Sec. 372. Section 71-102, Revised Statutes Supplement, 1995, is amended to read:

71-102. (1) No person shall engage in the practice of medicine and surgery, athletic training, respiratory care, osteopathic medicine, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, massage therapy, physical therapy, audiology, speech-language pathology, embalming, funeral directing, psychology, veterinary medicine and surgery, medical nutrition therapy, or mental health practice unless such person has obtained a license from the Department of Health Department of Health and Human Services Regulation and Licensure for that purpose.

(2) No person shall hold himself or herself out as a certified social worker or certified master social worker unless such person has obtained a certificate from the department for that purpose.

(3) No person shall hold himself or herself out as a certified professional counselor unless such person has obtained a certificate from the department for such purpose.

(4) No person shall hold himself or herself out as a certified marriage and family therapist unless such person has obtained a certificate from the department for such purpose.

Sec. 373. Section 71-104, Revised Statutes Supplement, 1994, is amended to read:

71-104. The Department of Health Department of Health and Human Services Regulation and Licensure may refuse to grant a license, certificate, or registration to practice a profession to any person, otherwise qualified, upon any of the grounds for which a license, certificate, or registration may be revoked under the provisions of the Uniform Licensing Law.

Sec. 374. Section 71-105, Revised Statutes Supplement, 1994, is amended to read:

71-105. Every license, certificate, or registration to practice a profession shall be in the form of a document under the name and seal of the Department of Health Department of Health and Human Services Regulation and Licensure and signed by the Director of Health Director of Regulation and Licensure and the Governor. It shall also be countersigned by the members of the board of examiners which gives the examination for the particular profession, except that all licenses, certificates, and registrations granted without examination may be issued by the department under its name and seal and signed by its director and the Governor. A copy of all licenses, certificates, and registrations shall be retained in the department and given the same number as has been assigned to the licensee, certificate holder, or registrant in the other records of the department.

Sec. 375. Section 71-139, Revised Statutes Supplement, 1994, is

amended to read:

71-139. The department may, without examination, except when a practical examination is required, issue a license to practice any profession, except pharmacy, podiatry, dentistry, medicine and surgery, optometry, osteopathic medicine and surgery or as an osteopathic physician, and audiology and speech-language pathology, to a person who has been in the active practice of that profession in some other state or territory or the District of Columbia upon the certificate of the proper licensing authority of the state, territory, or District of Columbia certifying that the applicant is duly licensed, that his or her license has never been suspended or revoked, and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement.

The applicant shall also present proof of the following things:

(1) That the state, territory, or District of Columbia from which the applicant comes shall have and maintain standards regulating his or her profession equal to those maintained in that profession by Nebraska;

(2) That his or her license there was based upon a written examination and the grades given at such examination;

(3) The date of his or her license;

(4) That such licensee has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity;

(5) The affidavit of at least two practitioners in that state or territory or the District of Columbia testifying to the applicant being of good moral character and standing in his or her profession; and

(6) That the applicant has been in the active and continuous practice under license by examination in the state, territory, or District of Columbia from which he or she comes for at least one year.

An applicant for reciprocal registration coming from any state may be licensed by reciprocity if his or her individual qualifications meet the Nebraska legal requirements.

The department may issue certificates or registrations on a reciprocal basis to persons who are required to be certified or registered pursuant to the Uniform Licensing Law. The department may adopt and promulgate rules and regulations for reciprocity pursuant to this section.

Persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Examiners in Osteopathy since January 1, 1963, and prior to May 23, 1981, and after May 23, 1981, persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Examiners in Medicine and Surgery who meet the requirements of this section and who have passed a written examination which is equivalent to that required in section 71-1,104 as determined by the Board of Examiners in Medicine and Surgery and who meet the requirements of section 71-1,137 for the practice of osteopathic medicine and surgery as evidenced by a certificate of the Board of Examiners in Medicine and Surgery may be granted a license to practice osteopathic medicine and surgery as defined in section 71-1,137 if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity. Graduates of an accredited school or college of osteopathic medicine since January 1, 1963, who meet the requirements of this section and who meet the applicable requirements of section 71-1,139.01 as certified by the Board of Examiners in Medicine and Surgery may be granted a special license as doctor of osteopathic medicine and surgery.

The department may approve without examination any person who has been duly licensed to practice optometry in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the Board of Examiners in Optometry shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice optometry if such person has been actively engaged in the practice under such license for at least one of the three years immediately preceding the application for license by reciprocity. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training. The applicant shall submit a certificate of the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession certifying that he or she is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned he or she is entitled to its endorsement. If the applicant is found to meet the requirements provided in this section and is qualified to be



licensed to practice the profession of optometry in the State of Nebraska, the board shall issue a license to practice optometry in the State of Nebraska to such applicant.

The Board of Examiners in Dentistry may approve any person who has been duly licensed to practice dentistry or dental hygiene in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the board shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice dentistry or dental hygiene if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least three years, one of which must be within the three years immediately preceding the application for license by reciprocity. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training and is possessed of good character and morals as required by the laws of the State of Nebraska. The applicant shall submit a certificate of the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession certifying that he or she is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned he or she is entitled to its endorsement. The applicant shall submit evidence of completion during the twelve-month period preceding the application of continuing education requirements comparable to the requirements of this state. The board of examiners may administer an oral examination to all applicants for licensure by reciprocity to assess their knowledge of basic clinical aspects of dentistry or dental hygiene. If the applicant is found by the board to meet the requirements provided in this section, the board shall certify such fact to the department, and the department upon receipt of such certification shall issue a license to practice dentistry or dental hygiene in the State of Nebraska to such applicant. If the board finds that the applicant does not satisfy the requirements of this section, the board shall certify its findings to the department. The ~~Director of Health~~ Director of Regulation and Licensure shall review the findings and shall, if in agreement with the findings, deny the application.

Sec. 376. Section 71-140, Reissue Revised Statutes of Nebraska, is amended to read:

71-140. The Board of Examiners in Pharmacy may recommend to the Department of Health Department of Health and Human Services Regulation and Licensure the registration as a pharmacist, without examination, of any person who is duly so registered by examination in some other state in which, under like conditions, reciprocal registration as a pharmacist, without examination, is granted to pharmacists duly registered by examination in this state. The applicant shall produce evidence satisfactory to the board of having had the required secondary and professional education and training, of having been actively engaged in the practice under such registration or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for reciprocal registration, and of being possessed of good character and morals, as demanded of applicants for registration under sections 71-1,142 to 71-1,147. Persons of good character who have become registered as pharmacists by examination in other states prior to September 1, 1939, shall be required to meet only the requirements which existed in this state at the time when they became registered in such other state.

Sec. 377. Section 71-141, Reissue Revised Statutes of Nebraska, is amended to read:

71-141. In order that the Department of Health Department of Health and Human Services Regulation and Licensure may determine the standards established by law and by rule in the other states, the Director of the Bureau of Examining Boards, or some other person authorized by the director of the department Director of Regulation and Licensure, shall gather information from other states bearing upon this point. The applicant shall, upon the request of the department, be responsible for securing information from the proper authority of the place from which he or she comes, of the standards maintained there, and the laws and rules relating thereto. In determining these standards, the department shall submit to the interested board of examiners any question that requires the exercise of expert knowledge.

Sec. 378. Section 71-142, Reissue Revised Statutes of Nebraska, is amended to read:

71-142. Where the licensing authority in any other state shall refuse to accept applicants from Nebraska who are qualified to be admitted under the laws of that state, and have been properly certified by the Department of Health Department of Health and Human Services Regulation and



Licensure of this state, then the department may decline to admit without examination licensees from that state.

Sec. 379. Section 71-143, Reissue Revised Statutes of Nebraska, is amended to read:

71-143. In those professions requiring a practical examination in connection with the admission of applicants from other states without general examination, if the board of examiners in the interested profession is not expected to be in session within thirty days, the Department of Health Department of Health and Human Services Regulation and Licensure may ask at least one-third of that board to give a special examination, and may fix their reasonable compensation therefor, in addition to their traveling expenses.

Sec. 380. Section 71-144, Reissue Revised Statutes of Nebraska, is amended to read:

71-144. The Department of Health Department of Health and Human Services Regulation and Licensure, with the consent of the interested board of examiners, shall have power to establish the necessary rules, not inconsistent with the law, to carry out the reciprocal relations with other states which are authorized herein.

Sec. 381. Section 71-145, Revised Statutes Supplement, 1994, is amended to read:

71-145. Any licensee, certificate holder, or registrant who is desirous of changing his or her residence to another state, territory, or the District of Columbia shall, upon application to the Department of Health Department of Health and Human Services Regulation and Licensure and the payment of the legal fee, receive a certified statement that he or she is a duly licensed, certified, or registered practitioner in this state.

Sec. 382. Section 71-150, Revised Statutes Supplement, 1994, is amended to read:

71-150. (1) The Director of Health Director of Regulation and Licensure shall have jurisdiction of proceedings (a) to deny the issuance of a license, certificate, or registration, (b) to refuse renewal of a license, certificate, or registration, and (c) to discipline a licensee, certificate holder, or registrant.

(2) To deny or refuse renewal of a license, certificate, or registration, the department shall send the applicant, licensee, certificate holder, or registrant, by registered or certified mail, notice setting forth the action taken and the reasons for the determination. The denial or refusal to renew shall become final thirty days after mailing the notice unless the applicant, licensee, certificate holder, or registrant, within such thirty-day period, gives written notice of his or her desire for a hearing. The hearing shall be conducted in accordance with the Administrative Procedure Act.

(3) In order for the director to discipline a licensee, certificate holder, or registrant, a petition shall be filed by the Attorney General in all cases. The petition shall be filed in the office of the director. The department may withhold a petition for discipline or a final decision from public access for a period of five days from the date of filing the petition or the date the decision is entered or until service is made, whichever is earliest.

Sec. 383. Section 71-153, Reissue Revised Statutes of Nebraska, is amended to read:

71-153. Upon the presentation of the petition to the Director of Health Director of Regulation and Licensure, he or she shall make an order fixing the time and place for the hearing, which shall not be less than thirty nor more than sixty days thereafter.

Sec. 384. Section 71-155, Revised Statutes Supplement, 1994, is amended to read:

71-155. The proceeding under section 71-150 shall be summary in its nature and triable as an equity action and shall be heard by the Director of Health Director of Regulation and Licensure or by a hearing officer designated by the director under rules and regulations of the department. Affidavits may be received in evidence in the discretion of the director or hearing officer. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing held under this section, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers, irrespective of the petition:

(1) Issue a censure or reprimand against the licensee, certificate holder, or registrant;

(2) Suspend judgment;

(3) Place the licensee, certificate holder, or registrant on probation;

(4) Place a limitation or limitations on the license, certificate, or registration and upon the right of the licensee, certificate holder, or registrant to practice the profession to such extent, scope, or type of practice, for such time, and under such conditions as are found necessary and proper;

(5) Impose a civil penalty not to exceed ten thousand dollars. The amount of the penalty shall be based on the severity of the violation;

(6) Enter an order of suspension of the license, certificate, or registration;

(7) Enter an order of revocation of the license, certificate, or registration; and

(8) Dismiss the action.

If the director determines that guilt has been established, the director may, at his or her discretion, consult with the board of examiners for the profession involved concerning sanctions to be imposed or terms and conditions of the sanctions. When the director consults with a board of examiners, the licensee or certificate holder shall be provided with a copy of the director's request, the recommendation of the board of examiners, and an opportunity to respond in such manner as the director determines.

The licensee, certificate holder, or registrant shall not engage in the practice of a profession after a license, certificate, or registration to practice such profession is revoked or during the time for which it is suspended. If a license, certificate, or registration is suspended, the suspension shall be for a definite period of time to be set by the director. The director may provide that the license, certificate, or registration shall be automatically reinstated upon expiration of such period, reinstated if the terms and conditions as set by the director are satisfied, or reinstated subject to probation or limitations or conditions upon the practice of the licensee, certificate holder, or registrant. If such license, certificate, or registration is revoked, such revocation shall be for all times, except that at any time after the expiration of two years, application may be made for reinstatement pursuant to section 71-161.04.

Sec. 385. Section 71-156, Revised Statutes Supplement, 1994, is amended to read:

71-156. In case the licensee, certificate holder, or registrant fails to appear, either in person or by counsel at the time and place designated in the notice required by section 71-154, the Director of Health Director of Regulation and Licensure after receiving satisfactory evidence of the truth of the charges shall order the license, certificate, or registration revoked or suspended or shall order any or all of the other appropriate disciplinary measures authorized by section 71-155 to be taken against the licensee, certificate holder, or registrant.

Sec. 386. Section 71-157, Revised Statutes Supplement, 1994, is amended to read:

71-157. If the order issued pursuant to section 71-156 is adverse to the licensee, certificate holder, or registrant, the costs shall be charged to him or her as in ordinary civil actions in the district court, but if the state is the unsuccessful party, the costs shall be paid out of any money in the Bureau of Examining Boards of the Department of Health Department of Health and Human Services Regulation and Licensure available for that purpose. Witness fees and costs may be taxed according to the rules prevailing in the district court.

Sec. 387. Section 71-158, Reissue Revised Statutes of Nebraska, is amended to read:

71-158. All costs accrued at the instance of the state when it is the successful party, which the Attorney General certifies cannot be collected from the defendant, shall be paid out of any available funds in the Bureau of Examining Boards of the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 388. Section 71-161.02, Revised Statutes Supplement, 1994, is amended to read:

71-161.02. The authority of the Director of Health Director of Regulation and Licensure to discipline a licensee, certificate holder, or registrant by placing him or her on probation pursuant to section 71-155 shall include, but not be limited to, the following:

(1) To require the licensee, certificate holder, or registrant to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of such combinations of written, oral, practical, and clinical, at the option of the

director;

(2) To require the licensee, certificate holder, or registrant to submit to a complete diagnostic examination by one or more physicians appointed by the director. If the director requires the licensee, certificate holder, or registrant to submit to such an examination, the director shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's, certificate holder's, or registrant's choice if the licensee, certificate holder, or registrant chooses to make available such a report or reports by his or her physician or physicians; and

(3) To limit the extent, scope, or type of practice of the licensee, certificate holder, or registrant.

Sec. 389. Section 71-161.03, Revised Statutes Supplement, 1994, is amended to read:

71-161.03. (1) Any petition filed with the Director of Health Director of Regulation and Licensure pursuant to section 71-150 may, at any time prior to the entry of any order by the director, be disposed of by stipulation, agreed settlement, consent order, or similar method as agreed to between the parties. A proposed settlement shall be submitted and considered in camera and shall not be a public record unless accepted by the director. The director may review the input provided to the Attorney General by the board pursuant to subsection (2) of this section. If the settlement is acceptable to the director, he or she shall make it the sole basis of any order he or she enters in the matter, and it may be modified or added to by the director only upon the mutual consent of both of the parties thereto. If the settlement is not acceptable to the director, it shall not be admissible in any subsequent hearing and it shall not be considered in any manner as an admission.

(2) The Attorney General shall not enter into any agreed settlement or dismiss any petition without first having given notice of the proposed action and an opportunity to the appropriate board of examiners to provide input into the terms of the settlement or on dismissal. The board shall have fifteen days from the date of the Attorney General's request to respond, but the recommendation of the board, if any, shall not be binding on the Attorney General. Meetings of the board for such purpose shall be in closed session, and any recommendation by the board to the Attorney General shall not be a public record until the pending action is complete, except that if the director reviews the input provided to the Attorney General by the board of examiners as provided in subsection (1) of this section, the licensee or certificate holder shall also be provided a copy of the input and opportunity to respond in such manner as the director determines.

Sec. 390. Section 71-161.06, Revised Statutes Supplement, 1994, is amended to read:

71-161.06. A petition for reinstatement of a license, certificate, or registration shall be considered at the next meeting of the board that is held not earlier than thirty days after the petition was filed. No public hearing need be held on the petition if the board recommends reinstatement of the license, certificate, or registration. Opportunity for a formal public hearing on the petition shall be granted by the board, if formally requested by the petitioner, prior to any recommendation by the board against reinstatement. Any petition for reinstatement accompanied by the requisite information and necessary documents shall be conclusively acted upon by the board within one hundred eighty days after the filing of the properly prepared petition and necessary accompanying documents with the board. If the petitioner formally requests opportunity for a formal public hearing thereon or if the board otherwise holds such a hearing, the petitioner shall be given at least thirty days' prior notice thereof by sending a copy of the notice of hearing by means of certified or registered mail directed to the petitioner at his or her last-known residence or business post office address as shown by the files or records of the Department of Health Department of Health and Human Services Regulation and Licensure or as otherwise known or by means of personal service by being personally served by any sheriff or constable or by any person especially appointed by the board. The hearing may be continued from time to time as the board finds necessary.

Sec. 391. Section 71-161.07, Revised Statutes Supplement, 1994, is amended to read:

71-161.07. Each board of examiners shall make a recommendation to the Director of Health Director of Regulation and Licensure regarding reinstatement following disciplinary action within the board's profession. In determining whether reinstatement should be recommended, the board (1) may request the department to investigate the petitioner to determine if the petitioner has committed acts or offenses prohibited by sections 71-147 and

71-148, (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 to make available a report or reports thereof to the board, and (3) may require the petitioner to pass a written, oral, or practical examination or any combination of such examinations.

The affirmative vote of a majority of the members of the board shall be necessary to recommend reinstatement of a license, certificate, or registration 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 section 71-161.04 when the petitioner has been afforded a hearing or an opportunity for a hearing upon any such petition 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. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 392. Section 71-161.12, Revised Statutes Supplement, 1994, is amended to read:

71-161.12. In addition to the grounds for denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration as otherwise provided by law, a license, certificate, or registration to practice any profession or occupation regulated by the Department of Health Department of Health and Human Services Regulation and Licensure pursuant to Chapter 71 shall be denied, refused renewal, limited, suspended, or revoked automatically by the Director of Health Director of Regulation and Licensure when the applicant, licensee, certificate holder, or registrant is found to be not qualified to practice the particular profession or occupation for which he or she is applying, licensed, certified, or registered because of habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug, physical or mental illness, or physical or mental deterioration or disability.

Sec. 393. Section 71-161.13, Revised Statutes Supplement, 1994, is amended to read:

71-161.13. When any complaint has been filed in the office of the Department of Health Department of Health and Human Services Regulation and Licensure by any person or any report has been made to the Director of Health Director of Regulation and Licensure by the Licensee Assistance Program under section 71-172.01 alleging that an applicant for a license, certificate, or registration or a person licensed, certified, or registered to practice any profession or occupation in the state regulated by the Department of Health Department of Health and Human Services Regulation and Licensure pursuant to Chapter 71 is suffering from habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug, physical or mental illness, or physical or mental deterioration or disability, the Director of Health Director of Regulation and Licensure shall investigate such complaint to determine if any reasonable cause exists to question the qualification of the applicant, licensee, certificate holder, or registrant to practice or to continue to practice such profession or occupation. If the director on the basis of such investigation or, in the absence of such complaint, upon the basis of his or her own independent knowledge finds that reasonable cause exists to question the qualification of the applicant, licensee, certificate holder, or registrant to practice such profession or occupation because of habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug, physical or mental illness, or physical or mental deterioration or disability, he or she shall report such finding and evidence supporting it to the board of examiners in the profession or occupation of the applicant, licensee, certificate holder, or registrant, and if such board agrees that reasonable cause exists to question the qualification of such applicant, licensee, certificate holder, or registrant, it shall appoint a committee of three qualified physicians to examine the applicant, licensee, certificate holder, or registrant and to report their findings and conclusions to the board. The board shall then consider the findings and the conclusions of the physicians and any other evidence or material which may be submitted to that board by the applicant, licensee, certificate holder, or registrant, by the director, or by any other person and shall then determine if the applicant, licensee, certificate holder, or registrant is qualified to practice or to continue to practice such profession or occupation in the State of Nebraska. If such board finds the applicant, licensee, certificate holder, or registrant to be not qualified to practice or to continue to practice such profession or occupation because of

habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug, physical or mental illness, or physical or mental deterioration or disability, it shall so certify that fact to the director with a recommendation for the denial, refusal of renewal, limitation, suspension, or revocation of such license, certificate, or registration. The director shall thereupon deny, refuse renewal of, suspend, or revoke the license, certificate, or registration, or limit the license, certificate, or registration of the licensee, certificate holder, or registrant to practice such profession or occupation in the state in such manner and to such extent as the director determines to be necessary for the protection of the public.

Sec. 394. Section 71-161.14, Revised Statutes Supplement, 1994, is amended to read:

71-161.14. The denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration as provided in section 71-161.13 shall continue in effect until reversed on appeal or until the cause of such denial, refusal of renewal, limitation, suspension, or revocation no longer exists and the board of examiners in the profession or occupation of the applicant, former licensee, certificate holder, or registrant, or licensee, certificate holder, or registrant finds, upon competent medical evaluation by a qualified physician or physicians, that the applicant, former licensee, certificate holder, or registrant, or licensee, certificate holder, or registrant is qualified to engage in the practice of the profession or occupation for which he or she made application, for which he or she was formerly licensed, certified, or registered, or for which he or she was licensed, certified, or registered subject to limitation and certifies that fact to the ~~Director of Health~~ Director of Regulation and Licensure. Upon such finding the director, notwithstanding the provision of any other statute, shall issue, return, or reinstate such license, certificate, or registration or remove any limitation on such license, certificate, or registration if the person is otherwise qualified as determined by the board of examiners in the relevant profession or occupation to practice or to continue in the practice of such profession or occupation.

Sec. 395. Section 71-161.15, Revised Statutes Supplement, 1994, is amended to read:

71-161.15. Refusal of an applicant, licensee, certificate holder, or registrant to submit to a physical or mental examination requested by the board of examiners in the relevant profession or occupation pursuant to sections 71-161.12 to 71-161.16 to determine his or her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which he or she is licensed, certified, or registered by the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure pursuant to the provisions of Chapter 71 shall be just cause for denial of the application or for refusal of renewal or suspension of his or her license, certificate, or registration automatically by the director until such examination has been made.

Sec. 396. Section 71-161.16, Revised Statutes Supplement, 1994, is amended to read:

71-161.16. Any applicant, licensee, certificate holder, or registrant shall have the right to appeal from an order denying, refusing renewal of, limiting, suspending, or revoking a license, certificate, or registration to practice a profession or occupation regulated by the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure pursuant to Chapter 71 because of habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug, physical or mental illness, or physical or mental deterioration or disability. Such appeal shall be in accordance with the Administrative Procedure Act.

Sec. 397. Section 71-161.17, Revised Statutes Supplement, 1994, is amended to read:

71-161.17. (1) The license, certificate, or registration of any person to practice any profession or occupation licensed, certified, or registered by the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure pursuant to the provisions of Chapter 71 shall be suspended automatically if he or she is determined by legal process to be mentally ill.

(2) A certified copy of the document evidencing that such a licensee, certificate holder, or registrant has been determined by legal process to be mentally ill shall be transmitted to the ~~Director of Health~~ Director of Regulation and Licensure as soon as possible following such determination.

(3) A suspension under this section may be terminated by the ~~Director of Health~~ Director of Regulation and Licensure when he or she

receives competent evidence that such former practitioner is not or is no longer mentally ill and is otherwise satisfied, with due regard for the public interest, that such former practitioner's license, certificate, or registration to practice may be restored.

Sec. 398. Section 71-161.19, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.19. No member of a board of examiners for any profession or occupation licensed or certified by the Department of Health Department of Health and Human Services Regulation and Licensure pursuant to the provisions of Chapter 71 shall be liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or otherwise for any action taken or recommendation made within the scope of the functions of such board, if such board member acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him or her after a reasonable effort is made to obtain the facts on which such action is taken or recommendation is made.

Sec. 399. Section 71-161.20, Revised Statutes Supplement, 1994, is amended to read:

71-161.20. (1) An applicant may apply to the Director of Health Director of Regulation and Licensure for reinstatement only with an affirmative recommendation of the appropriate board of examiners, and such application to the director may not be received or filed by the director unless accompanied by (a) the written recommendation of the board, including any finding of fact or order of the board, (b) the application submitted to the board, (c) the record of hearing if any, and (d) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the board and the petitioner.

(2) The director shall then review the application and other documents and may affirm the recommendation of the board and grant reinstatement or may reverse or modify the recommendation if the board's recommendation is (a) in excess of statutory authority, (b) made upon unlawful procedure, (c) unsupported by competent, material, and substantial evidence in view of the entire record, or (d) arbitrary or capricious.

Sec. 400. Section 71-165, Reissue Revised Statutes of Nebraska, is amended to read:

71-165. Any person who shall file, or attempt to file, with the Department of Health Department of Health and Human Services Regulation and Licensure any false or forged diploma or certificate, or affidavit of identification or qualification, shall be deemed guilty of forgery, and upon conviction thereof shall be punished according to the penalties imposed in the statutes relating to that subject.

Sec. 401. Section 71-169, Reissue Revised Statutes of Nebraska, is amended to read:

71-169. The Department of Health Department of Health and Human Services Regulation and Licensure shall promulgate necessary rules and regulations and forms for carrying out the provisions of the Uniform Licensing Law. It may also adopt rules and regulations supplementing any of the provisions herein contained but not inconsistent therewith.

Sec. 402. Section 71-170, Revised Statutes Supplement, 1994, is amended to read:

71-170. The Department of Health Department of Health and Human Services Regulation and Licensure shall have printed in pamphlet form for each profession the following matter which is pertinent to the particular profession for which such pamphlet is published: (1) The law regulating the practice of the profession; (2) the rules of the department relative to licenses, certificates, and registrations; and (3) the rules relating to examinations adopted by the department on the recommendation of the board of examiners.

Sec. 403. Section 71-172.01, Revised Statutes Supplement, 1994, is amended to read:

71-172.01. (1) The Department of Health Department of Health and Human Services Regulation and Licensure may contract with the Department of Public Institutions Department of Health and Human Services to provide a Licensee Assistance Program to licensees, certificate holders, and registrants regulated by the Bureau of Examining Boards. The program shall be limited to providing education, referral assistance, and monitoring of compliance with treatment of habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug and shall be limited to voluntary participation by licensees, certificate holders, and registrants.

(2)(a) Participation in the program shall be confidential, except that if any evaluation by the program determines that the intoxication, dependence, or active addiction may be of a nature which constitutes a danger

to the public health and safety by the person's continued practice or if the person fails to comply with any term or condition of a treatment plan, the program shall report the same to the Director of Health Director of Health and Human Services Regulation and Licensure.

(b) Participation in the program shall not preclude the investigation of alleged statutory violations which could result in disciplinary action against the person's license, certificate, or registration or criminal action against the person. Any report from any person or from the program to the department indicating that a licensee, certificate holder, or registrant is habitually intoxicated or is dependent on or actively addicted to alcohol or any controlled substance or narcotic drug shall be treated as a complaint against such license, certificate, or registration and shall subject such licensee, certificate holder, or registrant to discipline under sections 71-150 to 71-155.

(3) No person who makes a report of intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug to the program or from the program to the department shall be liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or other criminal or civil action of any nature, whether direct or derivative, for making such report or providing information to the program or department in accordance with this section.

(4) Any person who contacts the department for information or assistance in obtaining referral or treatment of himself or herself or any other person licensed, certified, or registered by the department for habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug shall be referred to the program. Such inquiries shall not be used by the department as the basis for investigation for disciplinary action, except that such limitation shall not apply to complaints or any other reports or inquiries made to the department concerning persons who may be suffering from habitual intoxication or dependence on or active addiction to alcohol or any controlled substance or narcotic drug or when a complaint has been filed or an investigation or disciplinary or other administrative proceeding is in process.

Sec. 404. Section 71-172.02, Revised Statutes Supplement, 1994, is amended to read:

71-172.02. The Department of Health Department of Health and Human Services Regulation and Licensure shall charge a fee of one dollar per year, in addition to any other fee, for each license, certificate, or registration. Such fee shall be collected at the time of issuance or renewal and shall be remitted to the State Treasurer for credit to the Licensee Assistance Cash Fund, which fund is hereby created. Money in the fund shall be used to carry out section 71-172.01. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 405. Section 71-180, Reissue Revised Statutes of Nebraska, is amended to read:

71-180. An accredited college of chiropractic within the meaning of the Uniform Licensing Law shall be (1) one which is recognized by the Department of Health Department of Health and Human Services Regulation and Licensure upon the recommendation of the chiropractic board of examiners, (2) a legally chartered college of chiropractic requiring for admission a diploma from an accredited high school or its equivalent and, beginning with students entering a college of chiropractic on or after January 1, 1974, at least two years credit from an accredited college or university of this or some other state, which requirement shall be regularly published in each prospectus or catalog issued by ~~said~~ such institution, (3) one which conducts a clinic for patients in which its students are required to regularly participate in the care and adjustment of patients, (4) one giving instruction in anatomy, orthopedics, physiology, embryology, chemistry, pathology, health ecology, bacteriology, symptomatology, histology, spinal analysis, diagnosis, roentgenology, neurology, and principles and practice of chiropractic, and (5) one requiring an actual attendance for four college years totaling not less than four thousand hours.

Sec. 406. Section 71-181, Reissue Revised Statutes of Nebraska, is amended to read:

71-181. The Department of Health Department of Health and Human Services Regulation and Licensure may in its discretion dispense with the examination in case of a chiropractor duly authorized to practice chiropractic in any other state, territory, or the District of Columbia, maintaining standards established by law or by duly authorized rules, equal to those of Nebraska, and who presents a certificate or license based on written examination issued by the proper authority of such other state, territory, or

the District of Columbia.

Sec. 407. Section 71-183.01, Revised Statutes Supplement, 1994, is amended to read:

71-183.01. Nothing in section 71-183 shall apply to the following practices, acts, and operations:

(1) To the practice of his or her profession by a physician or surgeon licensed as such under the laws of this state unless he or she practices dentistry as a specialty;

(2) To the giving by a qualified anesthetist or registered nurse of an anesthetic for a dental operation under the direct supervision of a licensed dentist or physician;

(3) The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Navy, Public Health Service, Coast Guard, or Department of Veterans Affairs;

(4) The practice of dentistry by a licensed dentist of other states or countries at meetings of the Nebraska Dental Association or components thereof, or other like dental organizations approved by the board, while appearing as clinicians;

(5) To the filling of work authorizations of a licensed and registered dentist as provided in this subdivision by any person or persons, association, corporation, or other entity for the construction, reproduction, or repair of prosthetic dentures, bridges, plates, or appliances to be used or worn as substitutes for natural teeth if such person or persons, association, corporation, or other entity does not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio, or otherwise, to the general public to construct, reproduce, or repair prosthetic dentures, bridges, plates, or other appliances to be used or worn as substitutes for natural teeth;

(6) To the use of roentgen or X-ray machines or other rays for making radiograms or similar records of dental or oral tissues under the supervision of a licensed dentist or physician if such service is not advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he or she has, leases, owns, or operates a roentgen or X-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity or administering treatment thereto for any disease thereof;

(7) To the performance by a licensed dental hygienist, under the supervision of a licensed dentist, of the oral prophylaxis procedure which shall include the scaling and polishing of teeth and such additional procedures as are prescribed in accordance with rules and regulations adopted by the Department of Health Department of Health and Human Services Regulation and Licensure;

(8) To the performance by a dental auxiliary other than a licensed dental hygienist, under the supervision of a licensed dentist, of duties prescribed in accordance with rules and regulations adopted by the Department of Health Department of Health and Human Services Regulation and Licensure; or

(9) To the performance by a licensed dental hygienist, by virtue of training and professional ability, under the supervision of a licensed dentist, of taking dental roentgenograms. Any other person is hereby authorized, under the supervision of a licensed dentist, to take dental roentgenograms but shall not be authorized to do so until he or she has satisfactorily completed a course in dental radiology recommended by the Board of Examiners in Dentistry and approved by the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 408. Section 71-185.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-185.01. (1) For purposes of this section, practitioner's facility shall mean a facility in which a licensed dentist practices his or her profession, other than a facility licensed pursuant to Chapter 71, article 20.

(2) The Department of Health Department of Health and Human Services Regulation and Licensure shall prescribe rules and regulations, duly adopted and promulgated and which are approved by the State Board of Health, for practitioners' facilities in order to insure that such facilities are safe and sanitary and use precautions necessary to prevent the creation and spread of infectious and contagious diseases. Based upon a formal complaint, the Department of Health Department of Health and Human Services Regulation and Licensure or its employees may inspect any practitioner's facility in this state to insure compliance with such regulations.

(3) Within thirty days after an inspection of a practitioner's facility which the Department of Health Department of Health and Human Services Regulation and Licensure or its employees find to be in violation of



its rules and regulations, the department shall notify the Board of Examiners in Dentistry of its findings in writing. The department shall file a petition for disciplinary action pursuant to section 71-150 if the violation of the rules and regulations is not corrected within thirty days after the licensee has received notice of such violation. The department shall send a written progress report of its inspection and actions taken to the Board of Examiners in Dentistry.

(4) It shall be considered unprofessional conduct for a licensee to practice in a facility that does not comply with the rules and regulations regarding sanitary practitioners' facilities.

Sec. 409. Section 71-186, Reissue Revised Statutes of Nebraska, is amended to read:

71-186. An accredited school within the meaning of the Uniform Licensing Law shall be one approved by the Department of Health Department of Health and Human Services Regulation and Licensure upon the recommendation of the board of examiners. It shall be a school or college which maintains the standards approved by the American Dental Association, and which publishes regularly a catalog giving the requirements for graduation and degrees as specified herein.

Sec. 410. Section 71-188, Reissue Revised Statutes of Nebraska, is amended to read:

71-188. When a person licensed to practice dentistry in this state changes his or her place of residence, he or she shall forthwith notify the Department of Health Department of Health and Human Services Regulation and Licensure of such change, which shall be noted in the records of the department.

Sec. 411. Section 71-193.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.01. There is hereby established a Division of Dental Health in the Department of Health Department of Health and Human Services Regulation and Licensure. The head of such division shall be known as the chief of the Division of Dental Health and shall be appointed by the Department of Health Department of Health and Human Services Regulation and Licensure. The chief of such division shall give full time to his or her duties as such chief.

Sec. 412. Section 71-193.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.03. The duties of ~~said~~ such Division of Dental Health shall be the promotion and development of activities which will result in the practice and improvement of the dental health of the people of the state under rules and regulations adopted by the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 413. Section 71-193.13, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.13. Any licensed dentist, public institution, or school may employ dental auxiliaries, in addition to licensed dental hygienists. Such dental auxiliaries, under the supervision of a licensed dentist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 414. Section 71-193.14, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.14. The Board of Examiners in Dentistry shall recommend rules and regulations to the Department of Health Department of Health and Human Services Regulation and Licensure governing the performance of duties by licensed dental hygienists and other dental auxiliaries. The Department of Health Department of Health and Human Services Regulation and Licensure shall adopt rules and regulations for such purpose upon the recommendations being submitted by the Board of Examiners in Dentistry.

Sec. 415. Section 71-193.15, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.15. A licensed dental hygienist shall perform the traditional dental hygiene functions set forth in section 71-193.17 only when authorized to do so by a licensed dentist who shall be responsible for the total oral health care of the patient. The Department of Health Department of Health and Human Services Regulation and Licensure in the conduct of public health-related services may authorize a licensed dental hygienist to conduct preliminary charting and screening examinations, provide oral health education for patients including the teaching of appropriate plaque control techniques, and perform or provide all of the duties that any other dental auxiliary is authorized to perform.

Sec. 416. Section 71-193.18, Revised Statutes Supplement, 1995, is amended to read:

71-193.18. (1) A licensed dental hygienist may monitor nitrous oxide analgesia under the indirect supervision of a licensed dentist.

(2) A licensed dental hygienist may be approved by the Department of Health and Human Services Regulation and Licensure, upon the recommendation of the Board of Examiners in Dentistry, to administer local anesthesia under the indirect supervision of a licensed dentist. The department may, upon the recommendation of the board, prescribe by rule and regulation: The necessary education and preparation, which shall include, but not be limited to, instruction in the areas of head and neck anatomy, osteology, physiology, pharmacology, medical emergencies, and clinical techniques; the necessary clinical experience; and the necessary examination for purposes of determining the competence of licensed dental hygienists to administer local anesthesia.

Upon the recommendation of the Board of Examiners in Dentistry, the department may approve successful completion after July 1, 1994, of a course of instruction to determine competence to administer local anesthesia. The course of instruction must be at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health and Human Services Regulation and Licensure. The course of instruction must be taught by a faculty member or members of the institution presenting the course. The Department of Health and Human Services Regulation and Licensure may approve for purposes of this subsection a course of instruction if such course includes:

(a) At least twelve clock hours of classroom lecture, including instruction in (i) medical history evaluation procedures, (ii) anatomy of the head, neck, and oral cavity as it relates to administering local anesthetic agents, (iii) pharmacology of local anesthetic agents, vasoconstrictor, and preservatives, including physiologic actions, types of anesthetics, and maximum dose per weight, (iv) systemic conditions which influence selection and administration of anesthetic agents, (v) signs and symptoms of reactions to local anesthetic agents, including monitoring of vital signs, (vi) management of reactions to or complications associated with the administration of local anesthetic agents, (vii) selection and preparation of the armamentaria for administering various local anesthetic agents, and (viii) methods of administering local anesthetic agents;

(b) At least twelve clock hours of clinical instruction during which time at least three injections of each of the anterior, middle and posterior superior alveolar, naso and greater palatine, infraorbital, inferior alveolar, lingual, mental, long buccal, and infiltration injections are administered; and

(c) Procedures, which shall include an examination, for purposes of determining whether the hygienist has acquired the necessary knowledge and proficiency to administer local anesthetic agents.

(3) No dental hygienist licensed in this state shall be approved to administer local anesthesia unless such person submits to the Board of Examiners in Dentistry a fee of not less than twenty dollars nor more than one hundred dollars as determined by the Department of Health and Human Services Regulation and Licensure upon the recommendation of the board.

Sec. 417. Section 71-193.19, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.19. The Department of Health and Human Services Regulation and Licensure may, by rule and regulation, prescribe functions, procedures, and services in addition to those in section 71-193.17 which may be performed by a licensed dental hygienist under the supervision of a licensed dentist when such additional procedures are educational or related to the oral prophylaxis and intended to attain or maintain optimal oral health.

Sec. 418. Section 71-193.20, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.20. The Department of Health and Human Services Regulation and Licensure upon the recommendation of the Board of Examiners in Dentistry may adopt and promulgate rules and regulations providing for employment or work-setting facilities required for the provision of dental services by a licensed dental hygienist.

Sec. 419. Section 71-193.22, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.22. As used in the Dental Anesthesia Act, unless the context otherwise requires:

(1) Analgesia shall mean the diminution or elimination of pain in the conscious patient;

(2) Board shall mean the Board of Examiners in Dentistry;

(3) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(4) General anesthesia shall mean a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and produced by a pharmacologic or nonpharmacologic method or a combination thereof;

(5) Inhalation analgesia shall mean the administration of nitrous oxide and oxygen to diminish or eliminate pain in a conscious patient;

(6) Parenteral shall mean administration other than through the digestive tract, including, but not limited to, intravenous administration; and

(7) Sedation shall mean a depressed level of consciousness in which the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command is retained and which is produced by a pharmacologic or nonpharmacologic method or a combination thereof.

Sec. 420. Section 71-1,103, Revised Statutes Supplement, 1994, is amended to read:

71-1,103. The following classes of persons shall not be construed to be engaged in the unauthorized practice of medicine:

(1) Persons rendering gratuitous services in cases of emergency;

(2) Persons administering ordinary household remedies;

(3) The members of any church practicing its religious tenets, except that they shall not prescribe or administer drugs or medicines, perform surgical or physical operations, nor assume the title of or hold themselves out to be physicians or surgeons, and such members shall not be exempt from the quarantine laws of this state;

(4) Students of medicine and surgery who are studying in an accredited school or college of medicine and who gratuitously prescribe for and treat disease under the supervision of a licensed physician;

(5) Physicians and surgeons of the United States Armed Forces or Public Health Service or United States Department of Veterans Affairs when acting in the line of such duty in this state;

(6) Physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and licensed in another state when incidentally called into this state for consultation with a physician and surgeon licensed in this state;

(7) Physicians and surgeons who are graduates of an accredited school or college of medicine with the degree of Doctor of Medicine and who reside in a state bordering this state and who are duly licensed under the laws thereof to practice medicine and surgery but who do not open an office or maintain or appoint a place to meet patients or to receive calls within this state;

(8) Persons providing or instructing as to use of braces, prosthetic appliances, crutches, contact lenses, and other lenses and devices prescribed by a doctor of medicine licensed to practice while working under the direction of such physician;

(9) Dentists practicing their profession when licensed and practicing in accordance with sections 71-183 to 71-191;

(10) Optometrists practicing their profession when licensed and practicing under and in accordance with sections 71-1,133 to 71-1,136;

(11) Osteopathic physicians practicing their profession if licensed and practicing under and in accordance with sections 71-1,137 and 71-1,141;

(12) Chiropractors practicing their profession if licensed and practicing under sections 71-177 to 71-182;

(13) Podiatrists practicing their profession when licensed and practicing under and in accordance with sections 71-173 to 71-176;

(14) Psychologists practicing their profession when licensed and practicing under and in accordance with sections 71-1,206.01 to 71-1,206.31;

(15) Any person licensed or certified under the laws of this state to practice a limited field of the healing art, not specifically named in this section, when confining themselves strictly to the field for which they are licensed or certified, not assuming the title of physician, surgeon, or physician and surgeon, and not professing or holding themselves out as qualified to prescribe drugs in any form or to perform operative surgery;

(16) Physicians and surgeons who are duly licensed to practice medicine and surgery in another state who have been recommended by the secretary of the board of examiners in the state of licensure and who have been granted temporary practice rights by the Board of Examiners in Medicine and Surgery, with the approval of the Department of Health Department of

Health and Human Services Regulation and Licensure, for a period not to exceed three months in any twelve-month period;

(17) Persons obtaining blood specimens while working under an order of or protocols and procedures approved by a physician, registered nurse, or other independent health care practitioner licensed to practice by the state if the scope of practice of that practitioner permits the practitioner to obtain blood specimens; and

(18) Any other trained person employed by a licensed institution or facility which is defined in section 71-2017.01 or clinical laboratory certified pursuant to the Nebraska Clinical Laboratories Certification Act, the federal Clinical Laboratory Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act to withdraw human blood for scientific or medical purposes.

Every act or practice falling within the practice of medicine and surgery as defined not specially excepted in this section shall constitute the practice of medicine and surgery and may be performed in this state only by those licensed by law to practice medicine in Nebraska.

Sec. 421. Section 71-1,104, Revised Statutes Supplement, 1994, is amended to read:

71-1,104. (1) Each applicant for a license to practice medicine and surgery shall (a)(i) present proof that he or she is a graduate of an accredited school or college of medicine, (ii) if a foreign medical graduate, provide a copy of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates that is currently effective and relates to such applicant or provide such credentials as are necessary to certify that such foreign medical graduate has successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service, or (iii) if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination but has not yet received the permanent certificate attesting to the same, provide such credentials as certify the same to the Department of Health Department of Health and Human Services Regulation and Licensure, (b) present proof that he or she has served at least one year of graduate medical education approved by the Board of Examiners in Medicine and Surgery or, if a foreign medical graduate, present proof that he or she has served at least three years of graduate medical education approved by the board, and (c) pass a licensing examination designated by the board and the department covering appropriate medical subjects.

(2) The department, upon the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (1)(b) of this section, if the applicant has served at least one year of graduate medical education approved by such board and if the following conditions are met:

(a) The applicant meets all other qualifications for a license to practice medicine and surgery;

(b) The applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and

(c) The applicant submits proof that he or she will enter into the practice of medicine in a health profession shortage area designated as such by the Nebraska Rural Health Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.

(3) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the health profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the Director of Health Director of Regulation and Licensure, upon recommendation of the board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the department for removal of the limitations. The director, upon the recommendation of the board, may grant or deny such application or may continue the license with limitations. The fee for a license to practice medicine and surgery based on a waiver of the requirement of more than one year of graduate medical education and the renewal of such license shall be the same as the fees prescribed in section 71-162.

(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the department may take disciplinary action against a license granted on the basis of a waiver of the requirement of more than one year of graduate medical education for violation of the limitations on the license. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.

Sec. 422. Section 71-1,105, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,105. An accredited school or college of medicine for the purpose of the Uniform Licensing Law shall be one approved by the Department of Health Department of Health and Human Services Regulation and Licensure upon the recommendation of the Board of Examiners in Medicine and Surgery, and it shall meet and maintain generally minimum standards prescribed by the Board of Examiners in Medicine and Surgery. Such minimum standards shall apply equally to all accredited schools, and any school to be accredited shall permit inspections by the department.

A school or college of osteopathic medicine and surgery fulfilling all the foregoing requirements shall not be refused standing as an accredited medical school because it may also specialize in giving instruction according to any special system of healing.

Sec. 423. Section 71-1,106, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,106. (1) Each applicant shall be examined in accordance with the teachings of the school of medicine which he or she desires to practice.

(2) The members of the Board of Examiners in Medicine and Surgery need not be present at the examination given to applicants for licensure when a national standardized examination is utilized. Such board may delegate the administration of such examination to the Department of Health Department of Health and Human Services Regulation and Licensure or another person. A majority of the members of such board shall be present at any other written examination given to applicants for licensure.

At least a majority of the members of the board shall be present at any oral examination given. The oral examination questions shall be limited to the technical knowledge of the practice of medicine and surgery.

Sec. 424. Section 71-1,107, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107. The Department of Health Department of Health and Human Services Regulation and Licensure may accept in lieu of the examination provided in section 71-1,104 a certificate of examination issued by the National Board of Medical Examiners of the United States of America, but every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in medicine and surgery without examination based upon a license by examination held in another state, territory, or the District of Columbia.

Sec. 425. Section 71-1,107.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.01. For the purposes of sections 71-1,107.01 to 71-1,107.14, unless the context otherwise requires:

(1) Temporary educational permit shall mean a permit to practice medicine and surgery, osteopathic medicine and surgery, or any of their allied specialties in a supervised educational program approved by the Board of Examiners in Medicine and Surgery;

(2) Graduate medical education shall mean a period of supervised educational training by a graduate of an accredited school or college of medicine or an accredited school or college of osteopathic medicine, which training has been approved by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Medicine and Surgery;

(3) Visiting faculty permit shall mean a permit for a physician qualified by virtue of previous medical training and experience to teach students of medicine, to conduct research, or both;

(4) Accredited hospital shall mean a hospital accredited by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Medicine and Surgery;

(5) Accredited school or college of medicine shall mean any school or college of medicine accredited as such pursuant to the laws of the State of Nebraska; and

(6) An accredited school or college of osteopathic medicine shall mean any school or college of osteopathic medicine accredited as such under the laws of the State of Nebraska.

Sec. 426. Section 71-1,107.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.02. The Department of Health Department of Health and Human Services Regulation and Licensure, upon the recommendation of the Board of Examiners in Medicine and Surgery, shall have authority, in its discretion, to issue temporary educational permits and visiting faculty permits to qualified applicants in accordance with the provisions of sections 71-1,107.01 to 71-1,107.14.

Sec. 427. Section 71-1,107.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.04. Before any temporary educational permit or visiting faculty permit is issued pursuant to sections 71-1,107.01 to 71-1,107.14, the Department of Health Department of Health and Human Services Regulation and Licensure, upon recommendation of the Board of Examiners in Medicine and Surgery, shall first determine that the applicant for such permit is of good moral character and that such applicant has otherwise met all of the requirements of sections 71-1,107.01 to 71-1,107.14 relating to issuing any such permit.

Sec. 428. Section 71-1,107.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.05. Except as otherwise provided by law, the holder of any temporary educational permit or visiting faculty permit shall be subject to all of the rules and regulations prescribed for physicians regularly licensed in the State of Nebraska and such other rules and regulations as may be adopted by the Department of Health Department of Health and Human Services Regulation and Licensure upon the recommendation of the Board of Examiners in Medicine and Surgery with respect to such permits in order to carry out the purposes of sections 71-1,107.01 to 71-1,107.14.

Sec. 429. Section 71-1,107.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.06. The duration of any permit issued pursuant to sections 71-1,107.01 to 71-1,107.14 shall be determined by the Department of Health Department of Health and Human Services Regulation and Licensure but in no case shall it be in excess of one year. The permit may be renewed from time to time at the discretion of the Department of Health Department of Health and Human Services Regulation and Licensure but in no case shall it be renewed for more than five one-year periods. The department may issue to all qualified graduates of accredited colleges of medicine or accredited schools or colleges of osteopathic medicine, who are eligible for the examination provided in section 71-1,104, and who make application for such examination, a temporary educational permit, without charge. Such permit shall be issued only for the duration of the time between the date of the examination and the date of licensure granted as a result of such examination. Any person issued a temporary educational permit without charge shall meet all requirements provided for in sections 71-1,107.01 to 71-1,107.13, except the required fee, and such exemption is only for the period of time between the examination date and the licensing date and for only those individuals who take the examination as provided in section 71-1,104.

Sec. 430. Section 71-1,107.07, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.07. Before granting any temporary educational permit, the Department of Health Department of Health and Human Services Regulation and Licensure shall ascertain by evidence satisfactory to such board that an accredited hospital or school or college of medicine in the State of Nebraska has requested the issuance of a temporary educational permit for an applicant to serve as a graduate student in its approved program for the period involved and any application for the issuance of such permit shall be signed by the applicant requesting that such permit be issued to him or her and shall designate the specified approved graduate medical educational program with respect to which such permit shall apply.

Sec. 431. Section 71-1,107.08, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.08. Before a visiting faculty permit shall be issued, the Department of Health Department of Health and Human Services Regulation and Licensure shall determine on the basis of evidence satisfactory to the department that an accredited school or college of medicine in the State of Nebraska has requested issuance of such visiting faculty permit for the individual involved to serve as a member of the faculty of such school or college of medicine and that the applicant for such permit has met the requirements of sections 71-1,107.01 to 71-1,107.14. Any application for issuing a visiting faculty permit shall be signed by the applicant to whom such permit is to be issued and shall designate the accredited school or

college of medicine where such applicant proposes to serve as a member of the faculty and shall outline the faculty duties to be performed pursuant to the permit.

Sec. 432. Section 71-1,107.10, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.10. (1) The recipient of a temporary educational permit shall pay an annual registration fee of fifteen dollars or any additional amount deemed necessary by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Medicine and Surgery to carry out the provisions of sections 71-1,107.01 to 71-1,107.14.

(2) The recipient of a visiting faculty permit shall pay an annual registration fee of twenty-five dollars or any additional amount deemed necessary by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Medicine and Surgery in order to carry out the terms and provisions of sections 71-1,107.01 to 71-1,107.14.

Sec. 433. Section 71-1,107.11, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.11. Any permit granted under the authority of sections 71-1,107.01 to 71-1,107.14 may be suspended, limited, or revoked by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Medicine and Surgery 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.

Sec. 434. Section 71-1,107.13, Revised Statutes Supplement, 1994, is amended to read:

71-1,107.13. A temporary educational permit may be issued to graduates of foreign schools or colleges of medicine or to individuals if the applicant, in addition to meeting the other requirements for the issuance of such permit, presents to the Department of Health Department of Health and Human Services Regulation and Licensure a copy of a permanent certificate of the Educational Commission on Foreign Medical Graduates currently effective and relating to such applicant or, in lieu thereof, such credentials as are necessary to certify to successful passage of the Visa Qualifying Examination, or its successor or equivalent examination, required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service or, if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination but has not yet received a permanent certificate attesting to the same, and provides such credentials as certify the same to the Department of Health department, at such time as the Department of Health department upon recommendation of the Board of Examiners in Medicine and Surgery determines, and, if so directed by the Department of Health department, passes an examination prescribed by the Department of Health department upon recommendation of the Board of Examiners in Medicine and Surgery to measure his or her clinical competence to proceed to advanced training before advancing beyond the initial phase of the training program, and if such examination is required, pays a fee of one hundred dollars or such additional amount as is determined by the Department of Health department upon recommendation of the Board of Examiners in Medicine and Surgery to cover the expense of such examination.

Sec. 435. Section 71-1,107.14, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.14. A visiting faculty permit may be issued to graduates of foreign schools or colleges of medicine or to individuals if an accredited college or school of medicine in the State of Nebraska has requested that such permit be issued. It shall not be necessary for such applicant to provide a certificate of the Educational Commission on Foreign Medical Graduates as required in the case of temporary educational permits. If directed by the Department of Health Department of Health and Human Services Regulation and Licensure an applicant for a visiting faculty permit may be required to pass an examination prescribed by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Medicine and Surgery to measure his or her clinical competence to practice medicine and if such examination is required the applicant shall pay a fee of one hundred dollars or such additional amount as shall be determined by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Medicine and Surgery to cover expense of such examination.



Sec. 436. Section 71-1,107.16, Revised Statutes Supplement, 1994, is amended to read:

71-1,107.16. For purposes of sections 71-1,107.15 to 71-1,107.30, unless the context otherwise requires:

- (1) Approved program shall mean a program for the education of physician assistants which the board formally approves;
- (2) Board shall mean the Board of Examiners in Medicine and Surgery;
- (3) Department shall mean the Department of Health of the State of Nebraska Department of Health and Human Services Regulation and Licensure;
- (4) Physician assistant shall mean any person who graduates from a program approved by the Council on Allied Health Education and Accreditation or its successor agency and the board, who satisfactorily completes a proficiency examination, and whom the board, with the concurrence of the department, approves to perform medical services under the supervision of a physician or group of physicians approved by the board to supervise such assistant;
- (5) Supervision shall mean the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication shall be sufficient to show ready availability if the board finds that such contact is sufficient to provide quality medical care. The level of supervision may vary by geographic location as provided in section 71-1,107.17;
- (6) Trainee shall mean any person who is currently enrolled in an approved program;
- (7) Proficiency examination shall mean the initial certifying examination approved by the board for the certification of physician assistants, including, but not limited to, the examination administered by the National Commission on Certification of Physician Assistants or other national organization established for such purpose that is recognized by the board;
- (8) Supervising physician shall mean a (a) board-approved physician who utilizes an approved physician assistant or (b) backup physician;
- (9) Backup physician shall mean a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A backup physician shall be subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician; and
- (10) Committee shall mean the Physician Assistant Committee created in section 71-1,107.25.

Sec. 437. Section 71-1,132.05, Revised Statutes Supplement, 1995, is amended to read:

71-1,132.05. For purposes of the Nurse Practice Act, unless the context otherwise requires:

- (1) Executive director means the executive director of the Board of Nursing;
- (2) Board means the Board of Nursing;
- (3) License by endorsement means the granting of active status and the authority to practice to an individual who has been licensed in another jurisdiction;
- (4) License by examination means the authority to practice is based on an assessment of minimum competency by such means as the board may determine;
- (5) Licensed practitioner means a person lawfully authorized to prescribe medications or treatments;
- (6) The practice of nursing means the performance for compensation or gratuitously of any act expressing judgment or skill based upon a systematized body of nursing knowledge. Such acts include the identification of and intervention in actual or potential health problems of individuals, families, or groups, which acts are directed toward maintaining health status, preventing illness, injury, or infirmity, improving health status, and providing care supportive to or restorative of life and well-being through nursing assessment and through the execution of nursing care and of diagnostic or therapeutic regimens prescribed by any person lawfully authorized to prescribe. Each nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. Licensed nurses may use the services of unlicensed individuals to provide assistance with personal care and activities of daily living;
- (7) The practice of nursing by a registered nurse means assuming responsibility and accountability for nursing actions which include, but are not limited to:
  - (a) Assessing human responses to actual or potential health conditions;
  - (b) Establishing nursing diagnoses;



- (c) Establishing goals and outcomes to meet identified health care needs;
- (d) Establishing and maintaining a plan of care;
- (e) Prescribing nursing interventions to implement the plan of care;
- (f) Implementing the plan of care;
- (g) Teaching health care practices;
- (h) Delegating, directing, or assigning nursing interventions that may be performed by others and that do not conflict with the act;
- (i) Maintaining safe and effective nursing care rendered directly or indirectly;
- (j) Evaluating responses to interventions;
- (k) Teaching theory and practice of nursing;
- (l) Conducting, evaluating, and utilizing nursing research;
- (m) Administering, managing, and supervising the practice of nursing; and
- (n) Collaborating with other health professionals in the management of health care;
- (8) The practice of nursing by a licensed practical nurse means the assumption of responsibilities and accountability for nursing practice in accordance with knowledge and skills acquired through an approved program of practical nursing. A licensed practical nurse may function at the direction of a licensed practitioner or a registered nurse. Such responsibilities and performances of acts must utilize procedures leading to predictable outcomes and must include, but not be limited to:
- (a) Contributing to the assessment of the health status of individuals and groups;
- (b) Participating in the development and modification of a plan of care;
- (c) Implementing the appropriate aspects of the plan of care;
- (d) Maintaining safe and effective nursing care rendered directly or indirectly;
- (e) Participating in the evaluation of response to interventions; and
- (f) Assigning and directing nursing interventions that may be performed by others and that do not conflict with the act;
- (9) Department means the Department of Health and Human Services Regulation and Licensure;
- (10) Director means the Director of Health and Human Services Regulation and Licensure;
- (11) Clinical nurse specialist means a registered nurse licensed in Nebraska who holds a master's degree or a doctoral degree in a nursing clinical specialty area;
- (12) Inactive status means the designation given to a licensee who requests this status and pays the fee. A licensee on inactive status is issued a card indicating inactive status but shall not practice;
- (13) Lapsed status means the designation given to a licensee who requests this status. A licensee on lapsed status shall not practice;
- (14) Expiration date means the date on which the license expires has passed. The licensee whose license has expired shall not practice;
- (15) Suspended means the licensee's authority to practice has been temporarily removed as a result of disciplinary action;
- (16) Revoked means the licensee's authority to practice has been removed as a result of disciplinary action. The licensee may apply for reinstatement of his or her license two years or more after the date of revocation;
- (17) Reinstatement means the return to active status and the restoration of the authority to practice to a licensee who was previously licensed in this state;
- (18) Verification means attesting to the current status of an individual's license;
- (19) Certification means attesting to the current status of an individual's license, any disciplinary action taken, and the means by which the individual was licensed;
- (20) Probation means that the individual's authority to practice is contingent on the licensee meeting specified conditions imposed as a result of disciplinary action;
- (21) Limited license means that certain restrictions have been imposed on the individual's authority to practice as a result of disciplinary action;
- (22) Assignment means appointing or designating another individual the responsibility for the performance of nursing interventions;
- (23) Delegation means transferring to another individual the

authority, responsibility, and accountability to perform nursing interventions; and

(24) Direction means managing, guiding, and supervising the nursing interventions performed by another individual.

Sec. 438. Section 71-1,132.53, Revised Statutes Supplement, 1995, is amended to read:

71-1,132.53. The Department of Health Department of Health and Human Services Regulation and Licensure shall:

(1) Conduct hearings upon charges of suspension or revocation of a license;

(2) Have power to issue subpoenas and compel the attendance of witnesses and administer oaths to persons giving testimony at hearings;

(3) Cause the prosecution of all persons violating the Nurse Practice Act and have power to incur the necessary expense; and

(4) Establish fees at a level sufficient to provide for all expenses and salaries of the board pursuant to section 71-1,132.49.

Sec. 439. Section 71-1,135.02, Revised Statutes Supplement, 1994, is amended to read:

71-1,135.02. (1) No optometrist licensed in this state, except an optometrist who has been certified by the department prior to April 30, 1987, or by another state with substantially equivalent requirements for certification as determined by the department upon recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for diagnostic purposes prior to April 30, 1987, shall use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision (2) of section 71-1,133 unless such person (a) submits to the Board of Examiners in Optometry the fee of not less than twenty dollars nor more than one hundred dollars as determined by the department upon the recommendation of the board, together with evidence of satisfactory completion of a pharmacology course at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health Department of Health and Human Services Regulation and Licensure, (b) passes an examination approved by the department, and (c) has been certified by the department upon the recommendation of the Board of Examiners in Optometry as qualified to use topical ocular pharmaceutical agents for diagnostic purposes. The department may approve for certification pursuant to subdivision (1)(a) of this section a pharmacology course if such course includes:

(i) A study of ocular anesthetics, mydriatics, cycloplegics, ocular toxicity of pharmaceutical agents, ocular allergies of ocular agents, and pharmacologic effects of ocular drug substances;

(ii) The consideration of the mechanism of action of anesthetics, cycloplegics, and mydriatics in human beings and the uses of such substances in the diagnosis of occurring ocular disorders;

(iii) At least one hundred hours of classroom education, clinical training, and examination; and

(iv) The correlation of the utilization of pharmaceutical agents and optical instrumentation and procedures.

The department may approve for certification pursuant to subdivision (1)(b) of this section an examination if such examination is:

(A) Based upon the competencies taught in a pharmacology course; and

(B) Administered by an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Department of Health Department of Health and Human Services Regulation and Licensure.

(2) No optometrist licensed in this state on or after April 30, 1987, shall use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (3) of section 71-1,133 unless such person (a) submits to the Board of Examiners in Optometry the fee of not less than twenty dollars nor more than one hundred dollars as determined by the department upon the recommendation of the board, together with evidence of satisfactory completion of a minimum of one hundred hours since January 1, 1984, of which forty hours shall be classroom education and sixty hours shall be supervised clinical training as it applies to optometry with particular emphasis on the examination, diagnosis, and treatment of the eye and adnexa offered by a school or college approved by the department, (b) passes an examination approved by the department, (c) has been certified by the department upon the recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for therapeutic purposes, and (d) has been certified by the department upon the recommendation of the Board of Examiners in Optometry to use topical ocular pharmaceutical agents for diagnostic purposes. The department may approve for certification pursuant to subdivision (2)(a) of

this section a therapeutic course or courses of instruction, from an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education, that have been completed after January 1, 1984. Such course or courses shall include, but not be limited to:

- (i) Review of general pharmacology and therapeutics;
- (ii) Review of ocular therapeutic pharmacology;
- (iii) Diagnosis and treatment of diseases of the lid, lacrimal system, conjunctiva, sclera, and episclera;
- (iv) Diagnosis of corneal disease and trauma including corneal foreign bodies;
- (v) Diagnosis and treatment of anterior segment eye diseases;
- (vi) Clinical procedures related to the diagnosis and treatment of the eye and adnexa;
- (vii) Ocular manifestations of systemic disease;
- (viii) Review of systemic disease syndromes;
- (ix) Ocular therapy including management of acute systemic emergencies; and
- (x) Consultation criteria in ocular disease and trauma.

Sec. 440. Section 71-1,136, Revised Statutes Supplement, 1994, is amended to read:

71-1,136. No school of optometry shall be approved by the Department of Health Department of Health and Human Services Regulation and Licensure as an accredited school unless the school is accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education.

Sec. 441. Section 71-1,136.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,136.03. The Board of Examiners in Optometry, with the approval of the Department of Health Department of Health and Human Services Regulation and Licensure, may adopt and promulgate such rules and regulations as may be reasonable and proper for the purpose of administering such provisions of sections 71-1,133 to 71-1,136.09 as properly fall within the jurisdiction of the board.

Sec. 442. Section 71-1,137, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,137. For the purpose of the Uniform Licensing Law, the following classes of persons shall be deemed to be engaged in practice as osteopathic physicians: (1) Persons publicly professing to be osteopathic physicians or publicly professing to assume the duties incident to the practice of osteopathic physicians; and (2) persons who are graduates of a school or college of osteopathic medicine and who treat human ailments by that system of the healing art which was advocated and taught by the school or college of osteopathic medicine from which such person graduated at the time of his or her graduation as determined by the Department of Health Department of Health and Human Services Regulation and Licensure after consultation with the Board of Examiners in Medicine and Surgery. No license issued under this section shall authorize the person so licensed to perform surgical procedures except those usually performed by general practitioners, as determined by the Department of Health Department of Health and Human Services Regulation and Licensure upon consultation with the Board of Examiners in Medicine and Surgery. Nothing in this section shall be construed to prohibit an osteopathic physician licensed in accordance with this section from serving as an assistant in surgery more complex than that usually performed by general practitioners, as determined above, when such surgery is performed by an osteopathic physician licensed pursuant to section 71-1,139.01 or by an osteopathic physician or doctor of medicine licensed pursuant to section 71-1,104. In no event shall this section or section 71-1,139.01 be construed as authorizing any physician to engage in any procedure which he or she is not qualified by training to perform according to the standards prevailing in the State of Nebraska at the time.

Persons who are licensed to practice as osteopathic physicians who have demonstrated to the Board of Examiners in Medicine and Surgery that they have acquired adequate training and knowledge for such purpose and have been so authorized by such board may prescribe and administer drugs and medicines. The Board of Examiners in Medicine and Surgery shall provide procedures for determining an osteopathic physician's qualifications to prescribe and administer drugs and medicines and for issuing appropriate evidence of authority to do so.

Sec. 443. Section 71-1,139, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,139. Every applicant for a license to practice as an

osteopathic physician shall (1) present proof of having completed a four-year course in an accredited high school or its equivalent, (2) present proof of having graduated from an accredited school or college of osteopathic medicine, and (3) pass an examination, as prescribed by the Board of Examiners in Medicine and Surgery, in the science of osteopathy and the practice of the same.

The Department of Health Department of Health and Human Services Regulation and Licensure shall accept, in lieu of the examination provided in subdivision (3) of this section, a certificate of examination issued by the National Board of Osteopathic Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued to osteopathic physicians without examination, based upon a license by examination held in another state or territory or the District of Columbia.

Sec. 444. Section 71-1,139.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,139.01. Any person (1) who has graduated from an accredited school or college of osteopathic medicine since January 1, 1963, (2) who meets all statutory requirements for licensure as an osteopathic physician, (3) who has served one year of internship or its equivalent at an institution approved for such training by the Board of Examiners in Medicine and Surgery, and (4) who, after his or her internship, has taken and passed the examination provided in section 71-1,104, upon making application therefor shall receive a license as a Doctor of Osteopathic Medicine and Surgery which shall qualify such person to practice osteopathic medicine and surgery.

The Department of Health Department of Health and Human Services Regulation and Licensure shall accept, in lieu of the examination provided in subdivision (4) of this section, a certificate of examination issued by the National Board of Osteopathic Examiners of the United States of America. Every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in osteopathic medicine and surgery without examination, based upon a license by examination held in another state or territory or the District of Columbia.

With respect to persons who have graduated from an accredited school or college of osteopathic medicine prior to January 1, 1963, the Department of Health Department of Health and Human Services Regulation and Licensure, upon the approval of the Board of Examiners in Medicine and Surgery, may issue a license to practice osteopathic medicine and surgery to any such graduate who meets all the requirements for issuance of such license except graduation from an accredited school or college of osteopathic medicine after January 1, 1963, and whose application has been approved by the Board of Examiners in Medicine and Surgery.

Sec. 445. Section 71-1,140, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,140. An accredited school or college of osteopathic medicine shall be one approved by the Department of Health Department of Health and Human Services Regulation and Licensure upon the recommendation of the Board of Examiners in Medicine and Surgery. An accredited school or college of osteopathic medicine shall meet and maintain general minimum standards prescribed by the Board of Examiners in Medicine and Surgery. The minimum standards shall apply equally to all such accredited schools and colleges. Any school or college seeking accreditation shall permit inspections by the department.

Nothing in this section shall be construed to prohibit the Department of Health Department of Health and Human Services Regulation and Licensure, upon consultation with the Board of Examiners in Medicine and Surgery, from accepting accreditation of a school or college of osteopathic medicine by the American Osteopathic Association as evidence of meeting the specified requirements of this section or the equivalent thereof.

Sec. 446. Section 71-1,141, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,141. With respect to licenses issued pursuant to sections 71-1,139 and 71-1,139.01 and any renewals thereof, the Department of Health Department of Health and Human Services Regulation and Licensure shall designate the extent of such practice as follows:

- (1) License to practice as an osteopathic physician; or
- (2) License to practice osteopathic medicine and surgery.

Every license issued under sections 71-1,139 and 71-1,139.01 shall confer upon the holder thereof the right to practice osteopathic medicine and surgery as taught in the schools or colleges of osteopathic medicine recognized by the American Osteopathic Association in the manner and to the extent provided by such license.

Sec. 447. Section 71-1,142, Revised Statutes Supplement, 1994, is amended to read:

71-1,142. For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy shall mean (a) the interpretation and evaluation of prescription orders, (b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices, (c) the participation in drug selection, drug utilization review, drug source selection, and drug administration, (d) the proper and safe storage of drugs and devices and the maintenance of proper records therefor, (e) patient counseling, (f) the provision of pharmaceutical care, and (g) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. The active practice of pharmacy shall mean the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(2) Administration shall mean the direct application of a drug or device by injection, inhalation, ingestion, or other means to the body of a patient;

(3) Board of pharmacy or board shall mean the Board of Examiners in Pharmacy;

(4) Caregiver shall mean any person acting as an agent on behalf of a patient or any person aiding and assisting a patient;

(5) Compounding shall mean the preparation, mixing, or assembling of a drug or device (a) as the result of a practitioner's prescription order or initiative occurring in the course of professional practice based upon the relationship between the practitioner, patient, and pharmacist or (b) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding shall include the preparation of drugs or devices in anticipation of prescription orders based upon routine, regularly observed prescribing patterns;

(6) Deliver or delivery shall mean the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration;

(7) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(8) Device shall mean an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is prescribed by a medical practitioner and dispensed by a pharmacist or other person authorized by law to do so;

(9) Dispense or dispensing shall mean the preparation and delivery of a drug or device pursuant to a lawful order of a medical practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the drug or device;

(10) Distribute shall mean the delivery of a drug or device other than by administering or dispensing;

(11) Drug dispensing permit shall mean a permit issued by the department upon the recommendation of the board to a public health clinic which allows for the dispensing of drugs and devices in the formulary approved by the Director of Health Director of Regulation and Licensure pursuant to section 71-1,147.48;

(12) Person shall mean an individual, corporation, partnership, limited liability company, association, or other legal entity;

(13) Labeling shall mean the process of preparing and affixing a label to any drug container or device container, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation;

(14) Pharmaceutical care shall mean the provision of drug therapy for the purpose of achieving therapeutic outcomes that improve a patient's quality of life. Such outcomes shall include (a) the cure of disease, (b) the elimination or reduction of a patient's symptomatology, (c) the arrest or slowing of a disease process, or (d) the prevention of a disease or symptomatology. Pharmaceutical care shall include the process through which the pharmacist works in concert with the patient and his or her caregiver, physician, or other professionals in designing, implementing, and monitoring a therapeutic plan that will produce specific therapeutic outcomes for the patient;

(15) Pharmacist shall mean any person who (a) is licensed by the State of Nebraska to practice pharmacy or (b) is primarily responsible for

providing pharmaceutical care as defined in subdivision (14) of this section;

(16) Pharmacy shall mean (a) any establishment, place, or location advertised as a pharmacy, drug store, hospital pharmacy, dispensary, apothecary, or any combination of such titles or any establishment where the practice of pharmacy is carried on except as exempted in section 71-1,143 and (b) any establishment, place, or location used as a pick-up point or drop point, including kiosks, for prescriptions to be filled or where prescribed drugs or devices are made ready for delivery to the patient, but shall not include an emergency box located within an institution pursuant to the provisions of the Emergency Box Drug Act;

(17) Drugs, medicines, and medicinal substances shall mean (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans or animals, (c) articles, except food, intended to affect the structure or any function of the body of a human or an animal, (d) articles intended for use as a component of any articles specified in subdivision (a), (b), or (c) of this subdivision, except any device or its components, parts, or accessories, and (e) prescription drugs as defined in subdivision (22) of this section;

(18) Medical practitioner shall mean any licensed physician, surgeon, podiatrist, dentist, or other person licensed to write prescriptions intended for treatment or prevention of disease or to affect body function in humans or animals;

(19) Patient counseling shall mean the verbal communication by a pharmacist, in a manner reflecting dignity and the right of the patient to a reasonable degree of privacy, of information to the patient or caregiver in order to improve therapeutic outcomes by maximizing proper use of prescribed drugs and devices and shall also include the duties set out in subsection (2) of section 71-1,147.35;

(20) Pharmacist in charge shall mean a pharmacist licensed by the State of Nebraska to practice pharmacy who has been designated on a pharmacy permit or designated by a public or private hospital licensed by the department as being responsible for the practice of pharmacy in the pharmacy for which such permit is issued or such hospital's inpatient pharmacy and who shall work within the physical confines of such pharmacy for a majority of the hours per week that the pharmacy is open for business averaged over a twelve-month period or thirty hours per week, whichever is less;

(21) Pharmacy intern shall mean (a) a student currently enrolled in an accredited college or school of pharmacy or (b) a graduate of an accredited college or school of pharmacy serving his or her internship, such internship to expire not later than fifteen months after the date of graduation or at the time of professional licensure, whichever comes first. Such pharmacy intern may compound and dispense drugs or devices and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist who shall either be the person to whom the pharmacy permit is issued or in the actual employ of the permittee;

(22) Prescription drug or legend drug shall mean (a) a drug which under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) Caution: Federal law prohibits dispensing without prescription; or (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian or (b) a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by medical practitioners only;

(23) Prescription order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug or device;

(24) Nonprescription drugs shall mean nonnarcotic medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of this state and the federal government;

(25) Public health clinic worker shall mean a person in a public health clinic operating with a drug dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task of dispensing authorized refills of oral contraceptives;

(26) Public health clinic shall mean the department, any county, city-county, or multicounty health department, or any private not-for-profit family planning clinic licensed as a health clinic as defined in section 71-2017.01;

(27) Supervision shall mean the immediate personal guidance and direction by the licensed pharmacist on duty in the facility of the

performance by supportive pharmacy personnel of authorized activities or functions subject to verification by such pharmacist, except that when supportive pharmacy personnel perform authorized activities or functions to assist a pharmacist on duty in the facility when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a certified physician assistant to patients or residents of a health care facility licensed pursuant to sections 71-2017 to 71-2029, the activities or functions of such supportive pharmacy personnel shall only be subject to verification by a pharmacist on duty in the facility;

(28) Supportive pharmacy personnel shall mean individuals at least eighteen years of age who are high school graduates or officially recognized by the State Department of Education as possessing the equivalent degree of education, who have never been convicted of any drug-related misdemeanor or felony, and who, under the written control procedures and guidelines of an employing pharmacy and who have received onsite training pursuant to subsection (4) of section 71-1,147.33, may perform those functions which do not require the exercise of professional judgment in assisting a pharmacist in connection with the preparation, compounding, dispensing, and distribution of drugs or devices under the supervision of a licensed pharmacist on duty in the facility, when such functions are subject to verification. The ratio of supportive pharmacy personnel allowed to assist one pharmacist in the preparation, compounding, dispensing, and distribution of drugs or devices shall not exceed one-to-one, except that a two-to-one ratio may apply to supportive pharmacy personnel assisting a pharmacist in circumstances when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a certified physician assistant to patients of a hospital licensed pursuant to sections 71-2017 to 71-2029. Under no circumstances shall the ratio exceed two supportive pharmacy personnel to one supervising pharmacist;

(29) Verification shall mean the confirmation by the supervising pharmacist of the accuracy and completeness of the acts, tasks, or functions undertaken by supportive pharmacy personnel to assist the pharmacist in the practice of pharmacy. Verification by the supervising pharmacist shall be documented prior to the time when the drug or device is dispensed; and

(30) Written control procedures and guidelines shall mean the document prepared by an employing pharmacy and approved by the board which specifies the manner in which the qualifications of supportive pharmacy personnel employed by the pharmacy are determined, the manner in which the training of such personnel is conducted and their basic level of competency is confirmed, the manner in which supervision is provided, the manner in which the functions of supportive pharmacy personnel are verified, and a protocol governing the use of supportive pharmacy personnel and the functions which they may perform.

Sec. 448. Section 71-1,144.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,144.01. (1) Commencing in 1984, standards for relicensure for each pharmacist within the State of Nebraska shall require that such pharmacist biennially complete thirty hours of continuing education, as prescribed in sections 71-1,144.01 to 71-1,144.05.

(2) As used in sections 71-1,144.01 to 71-1,144.05, unless the context otherwise requires:

(a) Continuing education shall mean study in one or more of the general areas of socioeconomic, administrative, managerial, and legal aspects of health care; the properties and actions of drugs and dosage forms; etiology; characteristics and therapeutics of the disease state; and related topics appropriate to the pharmacist in his or her role which are offered by an approved provider but not part of a formal degree program. The activity shall be a planned learning experience designed to promote the continual development of knowledge, skills, and attitudes on the part of the practitioner;

(b) Approved provider shall mean an institution or organization meeting the same quality standards as those established in the Criteria for Quality of the American Council on Pharmaceutical Education;

(c) Continuing education unit shall mean ten contact hours of participation in an organized continuing education experience, under responsible sponsorship, capable direction, and qualified instruction as defined by the American Council on Pharmaceutical Education;

(d) Board shall mean the Board of Examiners in Pharmacy;

(e) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure; and

(f) Committee shall mean the Committee on Continuing Pharmacy Education.

Sec. 449. Section 71-1,145, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,145. Every applicant for examination and registration as a pharmacist shall be not less than twenty-one years of age, of good moral character and temperate habits, a graduate of an accredited school or college of pharmacy, or an accredited department of pharmacy of a university, recognized by the Board of Examiners in Pharmacy, except that an applicant who is a graduate of a school, college, or university department of pharmacy located outside of the United States and which is not accredited, shall be deemed to have satisfied the requirement of being a graduate of an accredited school, college, or department of pharmacy upon providing evidence satisfactory to the Board of Examiners in Pharmacy, of graduation from such foreign school, college, or department of pharmacy and upon successfully passing an equivalency examination approved by the Board of Examiners in Pharmacy.

Every applicant shall file proof of sufficient internship experience in a community retail or hospital pharmacy, under the supervision of a registered or licensed pharmacist, as may be required by the Board of Examiners in Pharmacy, which shall comply with national requirements for internship as set forth by the National Association of Boards of Pharmacy; ~~7~~ shall have satisfactorily completed at least five years of college of which at least three years shall have been in an accredited school or college of pharmacy, or in an accredited department of pharmacy of a university; and shall pass an examination satisfactory to the Board of Examiners in Pharmacy. Proof of the qualifications for registration prescribed in this section shall be made to the satisfaction of the Board of Examiners in Pharmacy, substantiated by proper affidavits, ~~except 7~~ PROVIDED, that in all cases the actual time of attendance at an accredited school or college of pharmacy, or an accredited department of pharmacy of a university, is certified by the appropriate college or university authority by the issuance of the degree granted to a graduate of such school, college, or department of pharmacy. Service and experience in a retail or hospital pharmacy under the supervision of a registered pharmacist, as required in this section, shall be predominantly related to the practice of pharmacy, and shall include the keeping of records and the making of reports required under state and federal statutes. The Department of Health Department of Health and Human Services Regulation and Licensure, upon the recommendation of the Board of Examiners in Pharmacy, shall promulgate rules and regulations as may be required to establish standards for internship which shall comply with national requirements to effect reciprocity with other states which have similar requirements for licensure. The fee for pharmacy internship shall be forty dollars and shall accompany the application and shall be transmitted to the State Treasurer for deposit in the Nebraska Pharmaceutical Fund for expenditure in the manner prescribed by section 71-1,147.02.

Sec. 450. Section 71-1,145.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,145.01. Notwithstanding the provisions of sections 71-103 and 71-1,145, a temporary license to practice pharmacy may be granted to persons meeting all of the qualifications for such license except the requirement that they be citizens of the United States. Such temporary license shall be issued for a period of one year from the date of issuance and may be renewed each year thereafter for four additional years, and if the person so licensed has not become a citizen of the United States within five years of the date such temporary license was issued, such license shall terminate and the person so licensed shall have no further right to practice pharmacy in this state. If a temporary licensee becomes a citizen of the United States while a temporary license is in force, and provides evidence thereof to the Department of Health Department of Health and Human Services Regulation and Licensure, a license to practice pharmacy may be issued in place of such temporary license and no additional fee shall be charged unless such temporary license had already expired, in which case a renewal fee shall be charged. The applicant for temporary license shall submit proof of his or her eligibility and intent to become a citizen of the United States. The fees to be paid and procedures for the denial, suspension, revocation, or reinstatement of such a temporary license shall be the same as for a license.

Sec. 451. Section 71-1,147.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.01. No person shall engage in, conduct, or carry on a pharmacy or engage in the practice of pharmacy in this state unless the Department of Health Department of Health and Human Services Regulation and Licensure has issued a permit to conduct such pharmacy, upon the recommendation of the board. Each permit shall be issued to a specific person



and for a specific location. Separate permits shall be issued for each of the premises of any business establishment having more than one location.

Nothing contained in this section shall be construed to require a public or private institution licensed as a hospital by the Department of Health Department of Health and Human Services Regulation and Licensure which is engaged in the compounding and dispensing of drugs or medicines and the filling of prescriptions of medical practitioners for persons registered as patients or confined in the hospital to obtain a permit as provided in sections 71-1,142, 71-1,143, and 71-1,147 to 71-1,147.14, either in the name of the hospital, an employee thereof, or any other person. This exemption from the requirement to obtain a permit to conduct a pharmacy or to engage in the practice of pharmacy as provided in sections 71-1,142, 71-1,143, and 71-1,147 to 71-1,147.14 does not include any public or private institution licensed as a hospital by the department which is primarily engaged in the compounding and dispensing of drugs and medicines and the filling of prescriptions of medical practitioners for persons not registered as patients, or confined to the hospital. This 7 PROVIDED, this exemption shall not allow such hospital exemption from any other laws of this state or of the United States pertaining to pharmacy and the dispensing of drugs and medicines.

Each public or private hospital which is licensed by the Department of Health Department of Health and Human Services Regulation and Licensure shall designate a full-time, part-time, or consultant pharmacist licensed in this state as being the pharmacist in charge and responsible for the practice of pharmacy in such hospital. The board or its designated representatives shall have the authority to examine and inspect the practice of pharmacy in any public or private hospital licensed by the Department of Health Department of Health and Human Services Regulation and Licensure.

Any medical practitioner who regularly engages in the dispensing of drugs or medicinal substances to his or her patients, as described in subdivision (2) of section 71-1,143, shall be required to obtain a permit, except that a medical practitioner who dispenses drugs or medicinal substances incident to his or her practice shall not be required to obtain a permit.

Sec. 452. Section 71-1,147.02, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.02. Each application for or renewal of a permit to conduct a pharmacy shall be made on a form prescribed by the Board of Examiners in Pharmacy and furnished by the Department of Health Department of Health and Human Services Regulation and Licensure. Such permit shall be displayed in a conspicuous place in the pharmacy for which it is issued and shall expire on June 30 following the date of issuance. The department shall, on or before the tenth day of each month, remit to the State Treasurer all fees and money collected in connection, directly or indirectly, with the issuance of or renewal of a permit to conduct a pharmacy. Such fees and money shall be credited by the State Treasurer to the Nebraska Pharmaceutical Fund, which fund is hereby created. The fund shall be used exclusively for the administration of the laws, rules, and regulations pertaining to pharmacies, the practice of pharmacy, and the Wholesale Drug Distributor Licensing Act. Any money in the Nebraska Pharmaceutical Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 453. Section 71-1,147.08, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.08. (1) Except as otherwise provided in section 71-1,147.01, a person desiring to open a new pharmacy shall file an application for a permit not less than thirty days prior to the contemplated opening date. Before a permit may be granted for the operation of a new pharmacy, an inspection shall be made by a duly qualified representative of the board to determine whether all of the requirements for such a permit have been fulfilled. If all of the requirements have been fulfilled, the department shall issue a permit for the operation of the new pharmacy. The fee for such permit, to accompany the application, shall be two hundred dollars.

(2) Any person desiring to open a new pharmacy who is not required to obtain a permit under section 71-1,147.01 shall file an application for initial inspection at least thirty days prior to the contemplated opening date. Upon satisfactory completion of the inspection the department shall issue the pharmacy an initial inspection certificate. The pharmacy shall post such certificate in a conspicuous place within view of the public. The fee for such certificates issued on the basis of an inspection shall be two hundred dollars. Within six months after May 10, 1983, the department shall issue an initial certificate to each pharmacy existing on May 10, 1983, which was initially inspected prior to such date and which was not required to

obtain a permit pursuant to section 71-1,147.01.

(3) Any public or private hospital pharmacy which does not display an initial inspection certificate issued pursuant to subsection (2) of this section shall be subject to a six-month suspension of the license of the public or private hospital.

(4) The department shall, except as provided in subsection (5) of this section, inspect each pharmacy in the state at least once every year. The Bureau of Health Facilities Standards of the Department of Health ~~Department of Health and Human Services Regulation and Licensure~~ shall have primary authority to inspect pharmacies of public and private hospitals licensed by the department and shall coordinate routine inspections of pharmacies in hospitals licensed by the department. The board or its representatives shall immediately report any suspected violation of the minimum pharmacy standard to the bureau which shall take remedial action. Such violation, if proved, shall be grounds for denial, suspension, or revocation of the license of the hospital under section 71-2023.

(5) The department may, upon recommendation by the board and the bureau, accept the inspection of a hospital pharmacy conducted by the Joint Commission on the Accreditation of Hospitals in lieu of the inspection required pursuant to subsection (4) of this section if the ~~Director of Health Director of Regulation and Licensure~~ determines that the commission standards are equal to or more stringent than the standards of the department.

(6) The department shall charge an annual inspection fee for each pharmacy inspected pursuant to subsection (4) or (5) of this section which does not possess a permit issued pursuant to section 71-1,147.07. Such fee shall be one hundred dollars and shall be paid into the Nebraska Pharmaceutical Fund.

Sec. 454. Section 71-1,147.10, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.10. (1) The department shall deny an application for a permit to conduct a pharmacy, revoke or suspend a permit to conduct a pharmacy, refuse renewal of a permit to conduct a pharmacy, deny an application for a license to operate a hospital, revoke or suspend the license of a hospital, or refuse renewal of a hospital license on any of the following grounds:

- (a) Conviction of any crime involving moral turpitude;
- (b) Obtaining a pharmacy permit or an inspection certificate by false representation or fraud;
- (c) Operating a pharmacy or hospital pharmacy without a licensed pharmacist responsible for the practice of pharmacy;
- (d) The compounding and dispensing of drugs or devices or the filling of a prescription by a person other than a licensed pharmacist or by an intern in pharmacy, without the presence of and the immediate personal supervision of a licensed pharmacist except as provided in sections 71-1,147.33 and 71-1,147.53;
- (e) A conviction of a violation of sections 71-1,142 to 71-1,147.61 or of a felony or, if a natural person, the revocation or suspension of a license to practice pharmacy in this state;
- (f) Unprofessional conduct which shall include, but not be limited to:
  - (i) Misrepresentation or fraud in the conduct of a pharmacy or hospital pharmacy;
  - (ii) Aiding or abetting an unlicensed person to practice pharmacy;
  - (iii) The dispensing over the counter without a prescription of a drug or device which under state or federal law or regulation is prohibited from being dispensed without a prescription or the renewal of such a prescription without the authorization of the prescriber;
  - (iv) The dispensing of a different drug or device in place of the drug or device ordered or prescribed without the express permission of the person ordering or prescribing the same;
  - (v) Any fraudulent act in drug product selection whereby the purchaser is charged for the prescribed brand rather than the selected product which is deemed to be chemically and therapeutically equivalent;
  - (vi) Failure to account for significant, substantial shortages or overages of controlled substances; or
  - (vii) Use of supportive pharmacy personnel in violation of section 71-1,147.33;
  - (g) Violation of the rules and regulations governing the practice of pharmacy as adopted and promulgated under authority of section 71-1,147.09 by the department; and
  - (h) Suggesting, soliciting, ordering, assisting, or abetting a pharmacist in the commission of any of the offenses set forth in sections

71-147 and 71-148.

(2) Nothing contained in this section shall be construed to prohibit any hospital licensed by the department from establishing rules and regulations regarding the method by which medical staff members shall agree to order or prescribe drugs or devices for patients of such hospitals.

(3) If the department determines to deny, revoke, suspend, or refuse renewal of the license of a hospital pursuant to this section, the procedures for such action in sections 71-2023 to 71-2029 shall be followed.

(4) If the department determines to deny an application for a permit to or to revoke, suspend, or refuse renewal of a permit to conduct a pharmacy, it shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, revocation, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing. The applicant or permittee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or permittee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to section 71-1,147.12. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations adopted and promulgated by the department.

(5) The proceeding shall be summary in its nature and triable as an equity action. Affidavits may be received in evidence in the discretion of the ~~Director of Health~~ Director of Regulation and Licensure. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers:

- (a) Issue a censure or reprimand against the permittee;
- (b) Suspend judgment;
- (c) Place the permittee on probation;
- (d) Place a limitation or limitations on the permit and upon the right of the permittee to operate a pharmacy to the extent, scope, or type of operation for such time and under such conditions as the director finds necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;
- (e) Impose a civil penalty not to exceed ten thousand dollars;
- (f) Enter an order of suspension of the permit;
- (g) Enter an order of revocation of the permit; and
- (h) Dismiss the action.

(6) The permittee shall not operate a pharmacy after a permit is revoked or during the time for which the permit is suspended. If a permit is suspended, the suspension shall be for a definite period of time to be fixed by the director. Such permit shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If such permit is revoked, such revocation shall be permanent, except that at any time after the expiration of two years, application may be made for reinstatement of any permittee whose permit shall have been revoked. Such application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board. The amount of the civil penalty, if any, shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any. The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application.

(7) Any civil penalty assessed and unpaid under 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 a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days after receipt remit any collected civil penalty to the State Treasurer

for credit to the permanent school fund.

(8) The Attorney General, upon the recommendation of the board, shall initiate criminal proceedings pursuant to section 71-167 against supportive pharmacy personnel or public health clinic workers who knowingly perform tasks or functions which require the expertise or professional judgment of a pharmacist. When appropriate, the Attorney General, upon the recommendation of the board, shall initiate corresponding criminal charges against pharmacists, pharmacy owners, or other persons who knowingly permit supportive pharmacy personnel or public health clinic workers to perform professional duties which require the expertise or professional judgment of a pharmacist.

Sec. 455. Section 71-1,147.11, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.11. (1) A petition for the revocation or suspension of a permit of a pharmacy may be filed by the Attorney General or by the county attorney in the county in which the permittee resides or is conducting a pharmacy. The petition shall be filed with the Board of Examiners in Pharmacy and shall be entitled In the Matter of the Revocation (or suspension) of the Permit of (Name of permittee) to operate a pharmacy. It shall state the charges against the permittee with reasonable definiteness. Upon approval of such petition by the Board of Examiners in Pharmacy, it shall be forwarded to the Department of Health Department of Health and Human Services Regulation and Licensure which shall make an order fixing a time and place for hearing thereon, which shall not be less than ten days nor more than thirty days thereafter. Notice of the filing of such petition and of the time and place of hearing shall be served upon the permittee at least ten days before such hearing.

(2) The notice of charges, referred to in subsection (1) of this section, may be served by any sheriff or constable or by any person especially appointed by the Department of Health Department of Health and Human Services Regulation and Licensure. The order of revocation or suspension of a permit shall be entered on record and the name of such permittee stricken from the roster of permittees, and the permittee may not engage in the operation of a pharmacy after revocation of the permit or during the time for which it is suspended.

Sec. 456. Section 71-1,147.19, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.19. Graduate pharmacy education or approved program shall mean a period of supervised educational training by a graduate of an accredited school or college of pharmacy, which training has been approved by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Pharmacy.

Sec. 457. Section 71-1,147.20, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.20. Accredited hospital or clinic shall mean a hospital or clinic accredited by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Pharmacy.

Sec. 458. Section 71-1,147.22 Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.22. The Department of Health Department of Health and Human Services Regulation and Licensure, upon the recommendation of the Board of Examiners in Pharmacy, shall have authority to issue temporary educational permits to qualified applicants in accordance with the provisions of sections 71-1,147.17 to 71-1,147.32.

Sec. 459. Section 71-1,147.24, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.24. Before any temporary educational permit is issued pursuant to sections 71-1,147.17 to 71-1,147.32, the Department of Health Department of Health and Human Services Regulation and Licensure, upon recommendation of the Board of Examiners in Pharmacy, shall determine that the applicant for such permit is of good moral character and that such applicant has otherwise met all of the requirements of sections 71-1,147.17 to 71-1,147.32 relating to issuing any such permit.

Sec. 460. Section 71-1,147.25, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.25. Except as otherwise provided by law, the holder of any temporary educational permit shall be subject to all of the rules and regulations prescribed for pharmacists regularly licensed in the State of Nebraska and such other rules and regulations as may be adopted by the Department of Health Department of Health and Human Services Regulation and Licensure upon the recommendation of the Board of Examiners in Pharmacy with

respect to such permits in order to carry out the purposes of sections 71-1,147.17 to 71-1,147.32.

Sec. 461. Section 71-1,147.26, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.26. The duration of any temporary educational permit issued pursuant to sections 71-1,147.17 to 71-1,147.32 shall be determined by the Department of Health Department of Health and Human Services Regulation and Licensure but in no case shall it be in excess of one year. The permit may be renewed from time to time at the discretion of the Department of Health Department of Health and Human Services Regulation and Licensure but in no case shall it be renewed for more than five one-year periods.

Sec. 462. Section 71-1,147.28, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.28. Before granting any temporary educational permit, the Department of Health Department of Health and Human Services Regulation and Licensure shall ascertain by evidence satisfactory to the department that an accredited hospital or clinic or an accredited school or college of pharmacy in the State of Nebraska has requested the issuance of a temporary educational permit for an applicant to serve as a graduate student in its approved program for the period involved. Any application for the issuance of such permit shall be signed by the applicant requesting that such permit be issued to him or her and shall designate the specified approved graduate pharmacy educational program with respect to which such permit shall apply.

Sec. 463. Section 71-1,147.30, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.30. The recipient of a temporary educational permit shall pay an annual registration fee of fifteen dollars or any additional amount, deemed necessary by the Department of Health Department of Health and Human Services Regulation and Licensure upon recommendation of the Board of Examiners in Pharmacy and established by departmental regulation to carry out the provisions of sections 71-1,147.17 to 71-1,147.32. In no case shall such fee exceed twenty-five dollars.

Sec. 464. Section 71-1,147.31, Reissue Revised Statutes of Nebraska, is amended to read:

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 Department of Health and Human Services Regulation and Licensure 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 Department of Health and Human Services Regulation and Licensure 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 Director of Regulation and Licensure may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 465. Section 71-1,147.38, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.38. Not later than one year prior to the date of the termination of the provisions of sections 71-1,142 to 71-1,147.38 relating to supportive pharmacy personnel as provided in section 71-1,147.37, the Department of Health Department of Health and Human Services Regulation and Licensure shall conduct a review and evaluation of the effectiveness and impact on the public and the practice of pharmacy of the utilization of supportive pharmacy personnel in the State of Nebraska. Such review shall include a report on the extent to which such personnel are utilized, the primary functions they are conducting, the impact of their use on the cost of prescription medications to the public, an analysis of any incidents of harm to the public related to the use of supportive pharmacy personnel, and such other information as may be necessary to provide a full and complete evaluation of the impact of the utilization of such personnel. Such evaluation shall determine whether the provisions of sections 71-1,142 to 71-1,147.38 relating to the use of supportive pharmacy personnel provide appropriate protection to the public and shall recommend appropriate legislation necessary to enhance public safety and permit the more efficient and economic use of such personnel, if warranted by the study. The department shall conduct such review and evaluation in such manner as to provide for the active participation of members of the profession of pharmacy, including those supervising supportive pharmacy personnel, members of the Board of Examiners in Pharmacy, other health care professionals, and members of the general

public. A final report of the review and evaluation shall be submitted to the Clerk of the Legislature not later than October 1 of the year immediately preceding the date of termination of the provisions of such sections relating to supportive pharmacy personnel.

Sec. 466. Section 71-1,147.44, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.44. (1) If the department determines to deny an application for a drug dispensing permit or to revoke, suspend, or refuse renewal of a permit, it shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, revocation, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing. The applicant or permittee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or permittee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to section 71-1,147.46.

(2) The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations adopted and promulgated by the department. The proceedings shall be summary in nature and triable as equity actions. Affidavits may be received in evidence in the discretion of the Director of Health Director of Regulation and Licensure. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party.

Sec. 467. Section 71-1,147.48, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.48. Upon the recommendation of the board, which shall be based on the recommendations of the Formulary Advisory Committee, the Director of Health Director of Regulation and Licensure shall approve the formulary to be used by public health clinics operating with a drug dispensing permit.

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

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

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

- (1) Controlled substances;
- (2) Drugs with significant dietary interactions;
- (3) Drugs with significant drug-drug interactions; and
- (4) Drugs or devices with complex counseling profiles.

Sec. 468. Section 71-1,147.53, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.53. Under a drug dispensing permit, approved formulary drugs and devices may be dispensed by a public health clinic worker or a health care professional licensed in Nebraska to practice medicine and surgery or licensed or certified in Nebraska as a registered nurse, licensed practical nurse, or physician assistant without the onsite services of a pharmacist if:

- (1) The initial dispensing of all prescriptions for approved formulary drugs and devices is conducted by a health care professional licensed in Nebraska to practice medicine and surgery or pharmacy or licensed or certified in Nebraska as a registered nurse, licensed practical nurse, or physician assistant;
- (2) The drug or device is dispensed pursuant to a prescription written by a medical practitioner;
- (3) The only prescriptions to be refilled under the drug dispensing permit are prescriptions for oral contraceptives;
- (4) Prescriptions are accompanied by patient instructions and

written information approved by the Director of Health Director of Regulation and Licensure;

(5) The dispensing of authorized refills of oral contraceptives is done by a licensed or certified health care professional listed in subdivision (1) of this section or by a public health clinic worker who meets the requirements provided in sections 71-1,147.54 to 71-1,147.56;

(6) All drugs or devices dispensed from a drug dispensing permit site are prepackaged by the manufacturer or on site at the public health clinic by a pharmacist into the quantity to be prescribed and dispensed at the public health clinic;

(7) All drugs and devices stored, received, or dispensed by public health clinics are properly labeled at all times. Properly labeled shall mean that the label affixed to the container prior to dispensing contains the following information:

(a) The name of the manufacturer;

(b) The lot number and expiration date from the manufacturer or, if prepackaged by a pharmacist, the lot number and calculated expiration date. Calculated expiration date shall mean an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging;

(c) Directions for patient use;

(d) The quantity of drug inside;

(e) The name, strength, and dosage form of the drug; and

(f) Auxiliary labels as needed for proper drug compliance;

(8) The following additional information is added to the label of each container when the drug or device is dispensed:

(a) The patient's name;

(b) The name of the prescribing health care professional;

(c) The prescription number; and

(d) The date dispensed;

(9) The only drugs and devices allowed to be dispensed or stored by public health clinics appear on the formulary approved pursuant to section 71-1,147.48; and

(10) At any time that dispensing is occurring from a public health clinic, the consultant pharmacist for the public health clinic or any other actively practicing pharmacist licensed to practice pharmacy in Nebraska is available, either in person or by telephone, to answer questions from clients, staff, public health clinic workers, or volunteers. This availability shall be confirmed and documented at the beginning of each day that dispensing will occur. The consultant pharmacist or practicing pharmacist shall inform the public health clinic if he or she will not be available during the time that his or her availability is required. If a pharmacist is unavailable, no dispensing shall occur.

Sec. 469. Section 71-1,147.59, Revised Statutes Supplement, 1994, is amended to read:

71-1,147.59. The Formulary Advisory Committee is hereby created. The committee shall consist of eight members as follows:

(1) Two members designated by the board;

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

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

(4) Two members who are employees of public health clinics which are or will be operating with drug dispensing permits and who are selected by the director from names recommended by such public health clinics.

Initial designations and recommendations shall be made and submitted to the director within thirty days after July 16, 1994. Subsequent designations and recommendations shall be submitted in July prior to the third quarter meeting of the committee.

Members shall serve for terms of two years each beginning with the third quarter meeting, except that one-half of the initial members appointed to the committee, as designated by the director, shall serve for terms of three years each. Members may serve for consecutive terms as approved by the director. The director may remove a member of the committee for inefficiency, neglect of duty, or misconduct in office in the manner provided in section

71-1,147.43.

Sec. 470. Section 71-1,154, Revised Statutes Supplement, 1994, is amended to read:

71-1,154. When used in the Nebraska Veterinary Practice Act and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Animal shall mean any animal other than man and shall include birds, fish, and reptiles, wild or domestic, living or dead, except domestic poultry;

(2) Veterinary medicine and surgery shall include veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine;

(3) Practice of veterinary medicine and surgery shall mean:

(a) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility, or infertility, or to render advice or recommendation with regard to any of the above;

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (a) of this subdivision; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision (a) of this subdivision;

(4) Veterinarian shall mean a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine;

(5) Licensed veterinarian shall mean a person who is validly and currently licensed to practice veterinary medicine and surgery in this state;

(6) Accredited school of veterinary medicine within the meaning of the Nebraska Veterinary Practice Act shall mean:

(a) One approved by the department upon the recommendation of the board;

(b) A veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent; and

(c) One that conforms to the standards required for accreditation by the American Veterinary Medical Association;

(7) Person shall mean any individual, firm, partnership, limited liability company, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person;

(8) Board shall mean the State Board of Examiners in Veterinary Medicine and Surgery;

(9) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure; and

(10) Bureau shall mean the Bureau of Examining Boards of the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 471. Section 71-1,190.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,190.01. Commencing July 1, 1985, all audiologists and speech-language pathologists, except those specified in section 71-1,187, shall be required to be licensed by the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 472. Section 71-1,191, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,191. The Board of Examiners in Audiology and Speech-Language Pathology may recommend to the Department of Health Department of Health and Human Services Regulation and Licensure that a national examination in audiology or speech-language pathology be approved in lieu of or in addition to an examination given by the board. When only a national examination is used, no examination fee will be charged by the board. The board shall recommend a passing score to the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 473. Section 71-1,206.05, Revised Statutes Supplement, 1994, is amended to read:

71-1,206.05. Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.



Sec. 474. Section 71-1,206.18, Revised Statutes Supplement, 1995, is amended to read:

71-1,206.18. Except as provided in this section, a person licensed as a psychologist under the law in effect immediately prior to September 1, 1994, but not certified in clinical psychology:

(1) Shall be issued a special license to practice psychology that continues existing requirements for supervision. Any psychological practice that involves the diagnosis and treatment of major mental and emotional disorders by a person holding a special license shall be done under the supervision of a licensed psychologist approved by the board in accordance with regulations developed by the board. A psychologist licensed under this subdivision shall not supervise mental health practitioners or independently evaluate persons under the Nebraska Mental Health Commitment Act. Supervisory relationships shall be registered with the board by a notarized letter signed by both the supervisor and supervisee. The letter shall contain:

(a) A general description of the supervisee's practice and the plan of supervision;

(b) A statement by the supervisor that he or she has the necessary experience and training to supervise this area of practice; and

(c) A statement by the supervisor that he or she accepts the legal and professional responsibility for the supervisee's practice with individuals having major mental and emotional disorders.

Psychologists practicing with special licenses may continue to use the title licensed psychologist but shall disclose supervisory relationships to clients or patients for whom supervision is required and to third-party payors when relevant. Psychologists who wish to continue supervisory relationships existing immediately prior to September 1, 1994, with qualified physicians may do so if a letter as described in this subdivision is received by the board within three months after such date;

(2) May apply for licensure before December 1, 1995, by demonstrating that he or she has rendered psychological diagnostic and treatment services as the major element of his or her employment in an educational, correctional, or health care setting for at least four years after licensure. A psychologist demonstrating such experience shall be deemed to have met equivalent requirements for licensure to those required by section 71-1,206.15 and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law. For purposes of this subdivision:

(a) Educational settings shall be those which are part of a university or state college and those regulated by the State Department of Education;

(b) Correctional settings shall be those under the jurisdiction of the Department of Correctional Services; and

(c) Health care settings shall be hospitals, skilled nursing facilities, clinics, and mental health centers licensed by the Department of Health Department of Health and Human Services Regulation and Licensure and accredited by the Joint Commission on Hospital Accreditation, by the Commission on Accreditation of Rehabilitation Facilities, by the Department of Public Institutions Department of Health and Human Services, or by a similar or an equivalent accrediting body as determined by the board.

The four-year period shall be continuous and represent four years of full-time employment or a combination of half-time and full-time employment that totals four years. For purposes of this subdivision, year shall mean a calendar year except for educational settings that may define the employment year in nine-month increments. In no case shall an applicant receive four years of credit for experience accrued in less than four calendar years; or

(3) May apply for licensure within three months of September 1, 1994, by demonstrating that he or she has been employed as full-time faculty in a program of graduate education in psychology approved by the American Psychological Association for a period not less than five years after licensure. A person demonstrating such employment shall be deemed to have met equivalent requirements for licensure under section 71-1,206.15 and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law.

A person licensed but not certified to practice clinical psychology under the law in effect immediately prior to September 1, 1994, who has failed the examination for clinical certification shall not be eligible to apply under subdivisions (2) and (3) of this section. The board may deny an application under such subdivisions if the applicant has had any action taken against him or her for violations of the laws licensing psychologists by the board or the boards of other jurisdictions. Such person shall be granted a special license under subdivision (1) of this section.

Sec. 475. Section 71-1,206.25, Revised Statutes Supplement, 1994,

is amended to read:

71-1,206.25. (1) Nothing in sections 71-1,206.01 to 71-1,206.31 shall be construed to prevent the teaching of psychology, the conduct of psychological research, or the provision of psychological services or consultation to organizations or institutions if such teaching, research, or service does not involve the delivery or supervision of direct psychological services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services, without regard to the source or extent of payment for services rendered. Nothing in such sections shall prevent the provision of expert testimony by psychologists who are otherwise exempted by such sections. Persons holding a doctoral degree in psychology from an institution of higher education may use the title psychologist in conjunction with the activities permitted by this subsection.

(2) Nothing in sections 71-1,206.01 to 71-1,206.31 shall be construed to prevent members of other recognized professions that are licensed, certified, or regulated under the laws of this state from rendering services consistent with their professional training and code of ethics and within the scope of practice as set out in the statutes regulating their professional practice if they do not represent themselves to be psychologists.

(3) Nothing in sections 71-1,206.01 to 71-1,206.31 shall be construed to prevent duly recognized members of the clergy from functioning in their ministerial capacity if they do not represent themselves to be psychologists or their services as psychological.

(4) Nothing in sections 71-1,206.01 to 71-1,206.31 shall be construed to prevent persons who are certified as school psychologists by the State Board of Education from using the title school psychologist and practicing psychology as defined in such sections if such practice is restricted to regular employment within a setting under the jurisdiction of the State Board of Education. Such individuals shall be employees of the educational setting and not independent contractors providing psychological services to educational settings.

(5) Nothing in sections 71-1,206.01 to 71-1,206.31 shall be construed to prevent any of the following persons from engaging in activities defined as the practice of psychology if they do not represent themselves by the title psychologist, if they do not use terms other than psychological trainee, psychological intern, psychological resident, or psychological assistant to refer to themselves, and if they perform their activities under the supervision and responsibility of a psychologist in accordance with the rules and regulations of the board:

(a) A matriculated graduate student in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education;

(b) An individual pursuing postdoctoral training or experience in psychology, including persons seeking to fulfill the requirements for licensure under sections 71-1,206.01 to 71-1,206.31; or

(c) An individual with a master's degree in clinical, counseling, or educational psychology or an educational specialist degree in school psychology who administers and scores and may develop interpretations of psychological testing under the supervision of a psychologist. Such individuals shall be deemed to be conducting their duties as an extension of the legal and professional authority of the supervising psychologist and shall not independently provide interpretive information or treatment recommendations to clients or other health care professionals prior to obtaining appropriate supervision. The board may adopt and promulgate rules and regulations governing the conduct and supervision of persons referred to in this subdivision, including the number of such persons that may be supervised by a licensed psychologist. Persons who have carried out the duties described in this subdivision as part of their employment in institutions accredited by the Department of Public Institutions Department of Health and Human Services, the State Department of Education, or the Department of Correctional Services for a period of two years prior to September 1, 1994, may use the title psychologist associate in the context of their employment in such settings. Use of the title shall be restricted to duties described in this subdivision, and the title shall be used in its entirety. Partial or abbreviated use of the title and use of the title beyond what is specifically authorized in this subdivision shall constitute the unlicensed practice of psychology.

Sec. 476. Section 71-1,232, Revised Statutes Supplement, 1994, is amended to read:

71-1,232. (1) The board may issue a temporary permit to practice respiratory care to any person who (a) meets all the requirements for a license as specified in subsection (1) of section 71-1,231 except passage of

the licensure examination required by subsection (2) of such section, (b) makes application for such permit within six months after the date of graduation from an accredited respiratory care educational program, and (c) submits a fee of not less than ten dollars nor more than fifty dollars as established by the department upon recommendation of the board.

(2) A temporary permit (a) shall allow the person to practice only when supervised by a licensed respiratory care practitioner, (b) shall be valid for one year from the date of issuance, (c) shall become null and void upon passage of the licensure examination or the expiration of one year from the date of issuance, whichever comes first, and (d) may be extended for up to one year by approval of the board upon a showing of good cause by the permit holder. The fee for such extension shall be the same as for the initial temporary permit.

(3) The ~~Director of Health~~ Director of Regulation and Licensure may suspend a temporary permit for a violation of the Uniform Licensing Law.

(4) The board shall, with the approval of the department, adopt and promulgate rules and regulations relating to the issuance and administration of temporary permits to practice respiratory care prior to licensure.

Sec. 477. Section 71-1,238, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,238. As used in sections 71-1,238 to 71-1,243, unless the context otherwise requires:

(1) Athletic trainer shall mean a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries to athletes under his or her care and who is licensed to perform the functions set out in section 71-1,240;

(2) Athletic training shall mean the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 71-1,240;

(3) Athletic injuries shall mean those injuries which are incurred by individuals through participation in sports or recreation;

(4) Board shall mean the Board of Examiners in Athletic Training; and

(5) Department shall mean the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure.

Sec. 478. Section 71-1,290, Revised Statutes Supplement, 1995, is amended to read:

71-1,290. The department shall issue a license, signed by the ~~Director of Health~~ Director of Regulation and Licensure, to each person who is qualified to be a licensed medical nutrition therapist.

Sec. 479. Section 71-1,312, Revised Statutes Supplement, 1995, is amended to read:

71-1,312. After September 1, 1995, no person shall engage in mental health practice or hold himself or herself out as a mental health practitioner unless he or she is licensed for such purpose pursuant to the Uniform Licensing Law, except that this section shall not be construed to prevent:

(1) Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;

(2) Alcohol, drug abuse, and compulsive gambling counselors who are certified by the ~~Division of Alcoholism, Drug Abuse, and Addiction Services of the Department of Public Institutions~~ Department of Health and Human Services Regulation and Licensure from practicing their profession. Such exclusion shall include students training and working under the supervision of a certified alcohol and drug abuse counselor to become certified;

(3) Any person employed by an agency, bureau, or division of the federal government from discharging his or her official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed mental health practitioner, he or she shall be licensed;

(4) Teaching or the conduct of research related to mental health services or consultation with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;

(5) The delivery of mental health services by:

(a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or

(b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;

(6) Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;

(7) The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;

(8) Any person employed by an agency or department of the State of Nebraska from discharging official duties within such agency or department during the six years immediately following September 1, 1994, except that no person shall represent himself or herself as a licensed mental health practitioner unless he or she holds such a license;

(9) Any person providing emergency crisis intervention or referral services or limited services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice; or

(10) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

Sec. 480. Section 71-1,339, Revised Statutes Supplement, 1995, is amended to read:

71-1,339. Beginning July 1, 1995, the clerk of any county or district court in this state shall report to the Department of Health the conviction of any person licensed, certified, or registered by the department under the Emergency Medical Technician-Paramedic Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068 of any felony or of any misdemeanor involving the use, sale, distribution, administration, or dispensing of a controlled substance, alcohol or chemical impairment, or substance abuse and shall also report a judgment against any such licensee, certificate holder, or registrant arising out of a claim of professional liability. The Attorney General or city or county prosecutor prosecuting any such criminal action and plaintiff in any such civil action shall provide the court with information concerning the licensure, certification, or registration of the defendant or party. Notice to the department shall be filed within thirty days after the date of conviction or judgment in a manner agreed to by the Director of Health Director of Regulation and Licensure and the State Court Administrator.

Sec. 481. Section 71-201, Revised Statutes Supplement, 1994, is amended to read:

71-201. No person shall practice or attempt to practice barbering without a license issued pursuant to the Barber Act by the board. It shall be unlawful to operate a barber shop unless it is at all times under the direct supervision and management of a licensed barber.

No person, partnership, limited liability company, or corporation shall operate a barber shop or barber school until a license has been obtained for that purpose from the board. All barber shop licenses shall be issued on or before June 30, shall be effective as of July 1 of each year, shall be good for one year, and shall expire on the succeeding June 30.

Any barber shop which fails to renew its license on or before the expiration date may renew such license by payment of the renewal fee and a late renewal fee established by the board within sixty days after such date or such other time period as the board establishes.

Any barber shop or barber school license may be suspended, revoked, or denied renewal by the board for violation of any provision of the statutes or any rule or regulation of the board pertaining to the operation of barber shops or barber schools or any rule or regulation of the Department of Health Department of Health and Human Services Regulation and Licensure pertaining to

sanitation, after due notice and hearing before the board.

Sec. 482. Section 71-217, Reissue Revised Statutes of Nebraska, is amended to read:

71-217. The Board of Barber Examiners may either refuse to issue or renew, or may suspend or revoke any certificate of registration or approval for any one or a combination of the following causes: (1) Conviction of a felony shown by a certified copy of the record of the court of conviction; (2) gross malpractice or gross incompetency; (3) continued practice by a person knowingly having an infectious or contagious disease; (4) advertising by means of knowingly false or deceptive statements or in violation of section 71-223.02; (5) advertising, practicing, or attempting to practice under a trade name or any name other than one's own; (6) habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs; (7) immoral or unprofessional conduct; (8) violation of any of the provisions of sections 71-201 to 71-237 or of any valid regulation promulgated by the Board of Barber Examiners pertaining to service charges and the elimination of unfair practices or of any valid regulation of the Department of Health Department of Health and Human Services Regulation and Licensure pertaining to sanitation; and (9) any check presented to the board as a fee for either an original license or renewal license or for examination for license or any other fee authorized in sections 71-201 to 71-237 which is returned to the State Treasurer unpaid.

Sec. 483. Section 71-223.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-223.01. The Department of Health Department of Health and Human Services Regulation and Licensure shall by regulations duly adopted, prescribe sanitary requirements for barber shops and barber schools. The Board of Barber Examiners or its employees shall regularly inspect all barber shops and barber schools in this state to insure compliance with such regulations. A written report of each such inspection made shall be submitted to the barber board. Each school or barber shop shall be called upon at least once each year for the purpose of inspection prior to the issuance of its license to be eligible for annual renewal of certification or registration. A report of any violation of the prescribed sanitary requirements shall be submitted to the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 484. Section 71-354, Reissue Revised Statutes of Nebraska, is amended to read:

71-354. Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 485. Section 71-355, Reissue Revised Statutes of Nebraska, is amended to read:

71-355. Director shall mean the Director of Health Director of Regulation and Licensure.

Sec. 486. Section 71-501, Reissue Revised Statutes of Nebraska, is amended to read:

71-501. The county boards of the several counties shall make and enforce regulations to prevent the introduction and spread of contagious, infectious, and malignant diseases in their respective counties. To that end a board of health shall be created, consisting of three members: The sheriff, who shall be chairmen chairperson and quarantine officer; a physician who resides permanently in the county, but if the county has no resident physician, then one conveniently situated, who shall be medical adviser, and who shall be chosen by the board of county commissioners or supervisors; and the county clerk or superintendent, to be appointed by the county board of commissioners or supervisors who shall be secretary. The county board may pay the chairmen chairperson of the board of health a salary for such services not to exceed fifty dollars per month, as fixed by the county board. The board shall make rules and regulations to safeguard the health of the people, prevent nuisances and insanitary conditions, and enforce the same throughout all the territory comprising such county, except incorporated cities and villages, and provide penalties for the violation thereof. Should the board of health fail to enact rules and regulations as herein provided, it shall enforce the rules and regulations promulgated by the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 487. Section 71-501.02, Revised Statutes Supplement, 1994, is amended to read:

71-501.02. The Department of Health Department of Health and Human Services may establish and administer a statewide acquired immunodeficiency syndrome program for the purpose of providing education, prevention, detection, and counseling services to protect the public health. In order to

implement the program, the department may:

(1) Apply for, receive, and administer federal and other public and private funds and contract for services, equipment, and property as necessary to use such funds for the purposes specified in section 71-501.01 and this section;

(2) Provide education and training regarding acquired immunodeficiency syndrome and its related diseases and conditions to the general public and to health care providers. The department may charge fees based on administrative costs for such services. Any fees collected shall be deposited in the state treasury and shall be credited to the Department of Health Department of Health and Human Services Cash Fund;

(3) Provide resource referrals for medical care and social services to persons affected by acquired immunodeficiency syndrome and its related diseases and conditions;

(4) Contract or provide for voluntary, anonymous, or confidential screening, testing, and counseling services. All sites providing such services pursuant to a contract with the department shall provide services on an anonymous basis if so requested by the individual seeking such services. The department may charge and permit its contractors to charge an administrative fee or may request donations to defer the cost of the services but shall not deny the services for failure to pay any administrative fee or for failure to make a donation;

(5) Cooperate with the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor for the purposes of research into and investigation of acquired immunodeficiency syndrome and its related diseases and conditions; and

(6) To the extent funds are available, offer services that are culturally and language specific upon request to persons identified as having tested positive for the human immunodeficiency virus infection. Such services shall include, but not be limited to, posttest counseling, partner notification, and such early intervention services as case management, behavior modification and support services, laboratory quantification of lymphocyte subsets, immunizations, Mantoux testing for tuberculosis, prophylactic treatment, and referral for other medical and social services.

Sec. 488. Section 71-502, Reissue Revised Statutes of Nebraska, is amended to read:

71-502. The Department of Health Department of Health and Human Services Regulation and Licensure shall have supervision and control of all matters relating to necessary communicable disease control and shall adopt and promulgate such proper and reasonable general rules and regulations as will best serve to promote communicable disease control throughout the state and prevent the introduction or spread of disease. In addition to such general and standing rules and regulations, (1) in cases of emergency in which the health of the people of the entire state or any locality in the state is menaced by or exposed to any contagious, infectious, or epidemic disease, or illness, or poisoning, (2) when a local board of health having jurisdiction of a particular locality fails or refuses to act with sufficient promptitude and efficiency in any such emergency, or (3) in localities in which no local board of health has been established, as provided by law, the department shall adopt, promulgate, and enforce special communicable disease control rules and regulations such as the occasion and proper protection of the public health may require. All necessary expenses incurred in the enforcement of such rules and regulations shall be paid by the city, village, or county for and within which the same have been incurred. All officers and other persons shall obey and enforce such communicable disease control rules and regulations as may be adopted and promulgated by the department.

Sec. 489. Section 71-502.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-502.01. Sexually transmitted diseases are declared to be contagious, infectious, communicable, and dangerous to the public health. Sexually transmitted diseases shall include, but not be limited to, syphilis, gonorrhea, chancroid, and such other sexually transmitted diseases as the Department of Health Department of Health and Human Services Regulation and Licensure may from time to time specify.

Sec. 490. Section 71-502.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-502.02. The Department of Health Department of Health and Human Services Regulation and Licensure shall adopt and promulgate such rules and regulations as shall, in its judgment, be necessary to control and suppress sexually transmitted diseases.

Sec. 491. Section 71-502.03, Reissue Revised Statutes of Nebraska,

is amended to read:

71-502.03. Every physician, or other person authorized by law to practice obstetrics, who is attending a pregnant woman in the state for conditions relating to her pregnancy during the period of gestation or at delivery shall take or cause to be taken a sample of the blood of such woman at the time of the first examination and shall submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend pregnant women in the state, but not permitted by law to take blood samples, shall cause such a sample of the blood of such pregnant women to be taken by a physician, duly licensed to practice either medicine and surgery or obstetrics, or other person authorized by law to take such sample of blood and have such sample submitted to an approved laboratory for a standard serological test for syphilis. The results of all such laboratory tests shall be reported to the Director of Health Director of Regulation and Licensure on standard forms prescribed and furnished by the Department of Health Department of Health and Human Services Regulation and Licensure. For the purpose of this section, a standard serological test shall be a test for syphilis approved by the Director of Health Director of Regulation and Licensure and shall be made at a laboratory approved to make such tests by the Director of Health Director of Regulation and Licensure. Such laboratory tests, as are required by this section, shall be made on request at the Department of Health Department of Health and Human Services Regulation and Licensure laboratory. A fee may be established by rule and regulation by the department to defray no more than the actual cost of such tests. Such fee shall be deposited in the state treasury and credited to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. In reporting every birth and stillbirth, physicians and others required to make such reports shall state on the portion of the certificate entitled For Medical and Health Use Only whether a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and the approximate date when the specimen was taken. No birth certificate shall show the result of such test. If no test was made, the reason shall be stated. The department shall provide the necessary clerical, printing, and other expenses in carrying out this section.

Sec. 492. Section 71-502.04, Revised Statutes Supplement, 1994, is amended to read:

71-502.04. Any person who is in charge of a clinical laboratory in which a laboratory examination of any specimen derived from the human body yields microscopical, cultural, immunological, serological, or other evidence of disease, illness, or poisoning as the Department of Health Department of Health and Human Services Regulation and Licensure may from time to time specify shall promptly notify the official local health department or the Department of Health Department of Health and Human Services Regulation and Licensure of such findings.

Each notification shall give the date and result of the test performed, the name and, when available, the age of the person from whom the specimen was obtained, and the name and address of the physician for whom such examination or test was performed. A legible copy of the laboratory report shall be deemed satisfactory notification.

All laboratory notifications required by this section shall be confidential and shall not be open to public inspection, except that the Director of Health Director of Health and Human Services, the Director of Regulation and Licensure, the director of the official local health department, or some person appointed by either any such director may discuss the notification with the attending physician.

Sec. 493. Section 71-503, Reissue Revised Statutes of Nebraska, is amended to read:

71-503. All attending physicians shall report to the official local health department or the Department of Health Department of Health and Human Services Regulation and Licensure promptly, upon the discovery thereof, the existence of any contagious or infectious diseases and such other disease, illness, or poisoning as the Department of Health Department of Health and Human Services Regulation and Licensure may from time to time specify. Any attending physician, knowing of the existence of any such disease, illness, or poisoning, who fails promptly to report the same in accordance with this section, shall be deemed guilty of a Class V misdemeanor for each offense.

Sec. 494. Section 71-503.01, Revised Statutes Supplement, 1994, is amended to read:

71-503.01. Whenever any statute of the state, any ordinance or resolution of a municipal corporation or political subdivision enacted pursuant to statute, or any rule or regulation of an administrative agency

adopted and promulgated pursuant to statute requires medical practitioners or other persons to report cases of communicable diseases, including sexually transmitted diseases and other reportable diseases, illnesses, or poisonings or to give notification of positive laboratory findings to the Department of Health Department of Health and Human Services Regulation and Licensure or any county or city board of health, local health department established pursuant to sections 71-1626 to 71-1636, city health department, local health agency, or state or local public official exercising the duties and responsibilities of any board of health or health department, such reports or notifications and the resulting investigations shall be confidential except as provided in this section, shall not be subject to subpoena, and shall be privileged and inadmissible in evidence in any legal proceeding of any kind or character. The Department of Health and Human Services Regulation and Licensure may disclose such reports or notifications to the Department of Health and Human Services.

In order to further the protection of public health, such reports and notifications may be disclosed by the Department of Health Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the official local health department, and the person making such reports or notifications to the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor in such a manner as to ensure that the identity of any individual cannot be ascertained. To further protect the public health, the Department of Health Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the official local health department, and the person making the report or notification may disclose to the official state and local health departments of other states, territories, and the District of Columbia such reports and notifications, including sufficient identification and information so as to ensure that such investigations as deemed necessary are made.

The appropriate board, health department, agency, or official may: (1) Publish analyses of such reports and information for scientific and public health purposes in such a manner as to ensure that the identity of any individual concerned cannot be ascertained; (2) discuss the report or notification with the attending physician; and (3) make such investigation as deemed necessary.

Any medical practitioner, any official health department, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services, or any other person making such reports or notifications shall be immune from suit for slander or libel or breach of privileged communication based on any statements contained in such reports and notifications.

Sec. 495. Section 71-504, Reissue Revised Statutes of Nebraska, is amended to read:

71-504. The state Director of Health and Human Services or local director of health, if a physician, or his or her agent, or any physician, upon consultation by any person as a patient, shall, with the consent of such person who is hereby granted the right of giving such consent, make or cause to be made a diagnostic examination for sexually transmitted diseases and prescribe for and treat such person for sexually transmitted diseases including prophylactic treatment for exposure to sexually transmitted diseases whenever such person is suspected of having a sexually transmitted disease or contact with anyone having a sexually transmitted disease. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of such person. In any such case, the state the Director of Health and Human Services or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The state Director of Health and Human Services or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered if reasonable care is taken to elicit from any such person who is under twenty years of age any history of sensitivity or previous adverse reaction to medication. Parents shall be liable for expenses of such treatment to minors under their custody. In the event such person is affected with a sexually transmitted disease, the state Director of Health and Human Services or local director of health may cause an interview of the person by a sexually transmitted disease investigator to secure the names of sexual contacts so that appropriate investigation can be made in an effort to locate and eliminate sources of infection.



Sec. 496. Section 71-505, Reissue Revised Statutes of Nebraska, is amended to read:

71-505. (1) It shall be the duty of the Department of Health Department of Health and Human Services Regulation and Licensure, in addition to other duties provided by law, to secure and maintain in all parts of the state an official record and notification of reportable diseases, illnesses, or poisonings. It shall be the duty of the Department of Health and Human Services, in addition to other duties provided by law, to provide popular literature upon the different branches of public health and distribute the same free throughout the state in a manner best calculated to promote that interest, to prepare and exhibit in the different communities of the state public health demonstrations accompanied by lectures and audiovisual aids, to provide preventive services to protect the public, and in all other effective ways to prevent the origin and spread of disease and promote the public health.

(2) The Department of Health Department of Health and Human Services may provide technical services to and on behalf of health care providers and may charge fees for such services in an amount sufficient to recover the administrative costs of such services. Such fees shall be paid into the state treasury and credited to the Department of Health Department of Health and Human Services Cash Fund.

Sec. 497. Section 71-507, Revised Statutes Supplement, 1994, is amended to read:

71-507. For purposes of sections 71-507 to 71-513:

(1) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(2) Designated physician shall mean the physician representing the emergency medical services provider as identified by name, address, and telephone number on the significant exposure report form;

(3) Emergency medical services provider shall mean a person certified to provide emergency medical services pursuant to sections 71-5101 to 71-5164, a person certified to provide emergency medical care pursuant to the Emergency Medical Technician-Paramedic Act, a first responder certified to provide prehospital care pursuant to the First Responders Emergency Rescue Act, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, and a firefighter;

(4) Health care facility shall have the meaning found in subdivisions (2), (10), (11), and (22) of section 71-2017.01;

(5) Infectious disease or condition shall mean hepatitis B, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, and such other diseases as the department may from time to time specify;

(6) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(7) Patient's attending physician shall mean the physician having the primary responsibility for the patient as indicated on the records of the health care facility;

(8) Provider agency shall mean any law enforcement agency, fire department, ambulance service, or other entity which is in the business of providing emergency response services;

(9) Significant exposure shall mean a situation in which the body fluids, such as blood, saliva, urine, or feces, of a patient have entered the body of an emergency medical services provider through a body opening such as the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's body fluids may have entered the emergency medical services provider's body; and

(10) Significant exposure report form shall mean the form used by the emergency medical services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Sec. 498. Section 71-514.02, Revised Statutes Supplement, 1994, is amended to read:

71-514.02. For purposes of sections 71-514.01 to 71-514.05:

(1) Health care provider shall mean a person who provides care to a patient which is designed to improve the status of his or her health whether this care is rendered in the hospital or community setting and whether the provider is paid or voluntary. Health care provider shall not mean an emergency medical services provider as defined in section 71-507;

(2) Infectious disease or condition shall mean hepatitis B, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, and such other diseases as the Department of Health Department of Health and Human Services Regulation and Licensure may from time

to time specify;

(3) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(4) Provider agency shall mean any health care facility or agency which is in the business of providing health care services; and

(5) Significant exposure to blood or other body fluid shall mean a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other materials known to transmit infectious diseases that results from providing care.

Sec. 499. Section 71-516.02, Revised Statutes Supplement, 1994, is amended to read:

71-516.02. The Legislature finds and declares that:

(1) Certain nursing homes and related facilities and residential care facilities claim special care for persons who have Alzheimer's disease, dementia, or a related disorder;

(2) It is in the public interest to provide for the protection of consumers regarding the accuracy and authenticity of such claims; and

(3) The provisions of the Alzheimer's Special Care Disclosure Act are intended to require such facilities to disclose the reasons for those claims, require records of such disclosures to be kept, and require the Department of Health Department of Health and Human Services Regulation and Licensure to examine the records.

Sec. 500. Section 71-516.03, Revised Statutes Supplement, 1994, is amended to read:

71-516.03. For the purposes of the Alzheimer's Special Care Disclosure Act, Alzheimer's special care unit shall mean any nursing facility, residential care facility, or assisted-living facility, licensed by the Department of Health Department of Health and Human Services Regulation and Licensure, which secures, segregates, or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease, dementia, or a related disorder and which advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer's disease, dementia, or related disorder care services.

Sec. 501. Section 71-516.04, Revised Statutes Supplement, 1994, is amended to read:

71-516.04. Any facility which offers to provide or provides care for persons with Alzheimer's disease, dementia, or a related disorder by means of an Alzheimer's special care unit shall disclose the form of care or treatment provided that distinguishes such form as being especially applicable to or suitable for such persons. The disclosure shall be made to the Department of Health Department of Health and Human Services Regulation and Licensure and to any person seeking placement within an Alzheimer's special care unit. The department shall examine all such disclosures in the records of the department as part of the facility's license renewal procedure at the time of licensure or relicensure.

The information disclosed shall explain the additional care provided in each of the following areas:

(1) The Alzheimer's special care unit's written statement of its overall philosophy and mission which reflects the needs of residents afflicted with Alzheimer's disease, dementia, or a related disorder;

(2) The process and criteria for placement in, transfer to, or discharge from the unit;

(3) The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

(4) Staff training and continuing education practices;

(5) The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

(6) The frequency and types of resident activities;

(7) The involvement of families and the availability of family support programs; and

(8) The costs of care and any additional fees.

Sec. 502. Section 71-519, Reissue Revised Statutes of Nebraska, is amended to read:

71-519. All infants born in the State of Nebraska shall be screened for phenylketonuria, primary hypothyroidism, biotinidase deficiency, and such other metabolic diseases as the Department of Health Department of Health and Human Services Regulation and Licensure may from time to time specify. Confirmatory tests shall be performed in the event that a presumptive positive result on the screening test is obtained.

The attending physician shall collect or cause to be collected the prescribed specimen or specimens and shall submit or cause to be submitted the

same to a laboratory for the performance of such tests within the period prescribed by the department. In the event a birth is not attended by a physician, the person registering the birth shall cause such tests to be performed within the period prescribed by the department. The laboratory shall within the period prescribed by the department perform such tests as are prescribed by the department on the specimen or specimens submitted and report the results of these tests to the physician, if any, and the hospital. The laboratory shall report to the department the results of such tests that are presumptive positive or confirmed positive within the period and in the manner prescribed by the department.

The hospital shall record the collection of specimens for tests for metabolic diseases and the reporting of the results of such tests or the absence of such report. The hospital shall report the results of such tests to the department within the period and in the manner prescribed by the department.

Dietary and therapeutic management of the infant with phenylketonuria, primary hypothyroidism, biotinidase deficiency, or such other metabolic diseases as the department may from time to time specify shall be the responsibility of the child's parent, guardian, or custodian with the aid of a physician selected by such person.

Sec. 503. Section 71-520, Reissue Revised Statutes of Nebraska, is amended to read:

71-520. The Department of Health Department of Health and Human Services may, in its discretion, establish a program to provide food supplements to children suffering from the metabolic diseases set forth in section 71-519. To defray or help defray the costs of any program which may be established by the department under this section, the department may prescribe and assess a scale of fees for the food supplements. The maximum prescribed fee shall be no more than the actual cost of such supplements. Any fees collected shall be deposited in the state treasury and shall be credited to the Department of Health Department of Health and Human Services Cash Fund.

Sec. 504. Section 71-521, Reissue Revised Statutes of Nebraska, is amended to read:

71-521. The Department of Health Department of Health and Human Services Regulation and Licensure with the advice of the Department of Health and Human Services shall prescribe the tests, the test methods and techniques, and such reports and reporting procedures as are necessary to implement sections 71-519 to 71-524.

The Department of Health Department of Health and Human Services Regulation and Licensure shall set fees for metabolic disease tests performed by the department's laboratory. The fees shall be set at the rate necessary to recover the actual costs of providing such tests. Such fees shall be deposited in the state treasury and credited to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 505. Section 71-522, Reissue Revised Statutes of Nebraska, is amended to read:

71-522. The Department of Health Department of Health and Human Services Regulation and Licensure shall establish and maintain a central data registry for the collection and storage of reported data concerning metabolic diseases. The department Department of Health and Human Services shall have full access to reported data and shall use reported data to ensure that all infants born in the State of Nebraska are tested for diseases set forth in section 71-519 or by rule and regulation. Reported data in anonymous or statistical form may be made available by the department Department of Health and Human Services Regulation and Licensure for purposes of research.

Sec. 506. Section 71-523, Reissue Revised Statutes of Nebraska, is amended to read:

71-523. (1) The Department of Health Department of Health and Human Services shall provide educational and resource services regarding metabolic diseases to persons affected by sections 71-519 to 71-524 and to the public generally.

(2) The department Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure may apply for, receive, and administer federal or other funds which are available for the purpose of implementing sections 71-519 to 71-524 and may contract for or provide services as may be necessary.

(3) The department Department of Health and Human Services Regulation and Licensure with the advice of the Department of Health and Human Services shall adopt and promulgate rules and regulations to implement sections 71-519 to 71-524.

Sec. 507. Section 71-524, Reissue Revised Statutes of Nebraska, is amended to read:

71-524. In addition to any other remedies which may be available by law, a civil proceeding to enforce section 71-519 may be brought in the district court of the county where the infant is domiciled or found. The attending physician, the hospital, the Attorney General, or the county attorney of the county where the infant is domiciled or found may institute such proceedings as are necessary to enforce such section. It shall be the duty of the Attorney General or the county attorney to whom the ~~Director of Health~~ Director of Regulation and Licensure reports a violation to cause appropriate proceedings to be initiated without delay. A hearing on any action brought pursuant to this section shall be held within seventy-two hours of the filing of such action, and a decision shall be rendered by the court within twenty-four hours of the close of the hearing.

Sec. 508. Section 71-529, Revised Statutes Supplement, 1994, is amended to read:

71-529. ~~The Department of Health~~ Nebraska Department of Health and Human Services may participate in the national efforts described in sections 71-527 and 71-528 and may develop a statewide immunization action plan which is comprehensive in scope and reflects contributions from a broad base of providers and consumers. In order to implement the statewide immunization action plan, the department may:

(1) Actively seek the participation and commitment of the public, health care professionals and facilities, the educational community, and community organizations in a comprehensive program to ensure that the state's children are appropriately immunized;

(2) Apply for and receive public and private awards to purchase vaccines and to administer a statewide comprehensive program;

(3) Provide immunization information and education to the public, parents, health care providers, and educators to establish and maintain a high level of awareness and demand for immunization by parents;

(4) Assist parents, health care providers, and communities in developing systems, including demonstration and pilot projects, which emphasize well-child care and the use of private practitioners and which improve the availability of immunization and improve management of immunization delivery so as to ensure the adequacy of the vaccine delivery system;

(5) Evaluate the effectiveness of these statewide efforts, conduct ongoing measurement of children's immunization status, identify children at special risk for deficiencies in immunization, and report on the activities of the statewide immunization program annually to the Legislature and the citizens of Nebraska;

(6) Recognize persons who volunteer their efforts towards achieving the goal of providing immunization of the children of Nebraska and in meeting the Healthy People 2000 objective of series-complete immunization coverage for ninety percent or more of United States children by their second birthday;

(7) Establish a statewide program to immunize Nebraska children from birth up to six years of age against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis B, and haemophilus influenzae type B. The program shall serve children who are not otherwise eligible for childhood immunization coverage with medicaid or other federal funds or are not covered by private third-party payment; and

(8) Contract to provide vaccine under the statewide program authorized under subdivision (7) of this section without cost to health care providers subject to the following conditions:

(a) In order to receive vaccine without cost, health care providers shall not charge for the cost of the vaccine. Health care providers may charge a fee for the administration of the vaccine but may not deny service because of the parent's or guardian's inability to pay such fee. Fees for administration of the vaccine shall be negotiated between the department and the health care provider, shall be uniform among participating providers, and shall be no more than the cost ceiling for the region in which Nebraska is included as set by the Secretary of the United States Department of Health and Human Services for the Vaccines for Children Program authorized by the Omnibus Budget Reconciliation Act of 1993;

(b) Health care providers shall administer vaccines according to the schedule recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention or by the American Academy of Pediatrics unless in the provider's medical judgment, subject to accepted medical practice, such compliance is medically inappropriate; and

(c) Health care providers shall maintain records on immunizations as prescribed by this section for inspection and audit by the Department of Health ~~Nebraska Department of Health and Human Services~~ or the Auditor of Public Accounts, including responses by parents or guardians to simple

screening questions related to payment coverage by public or private third-party payors, identification of the administration fee as separate from any other cost charged for other services provided at the same time the vaccination service is provided, and other information as determined by the department to be necessary to comply with subdivision (5) of this section.

Sec. 509. Section 71-530, Revised Statutes Supplement, 1994, is amended to read:

71-530. The Childhood Vaccine Act is not intended to create an entitlement to any activities described in the act, and the Department of Health Department of Health and Human Services may perform the activities described in the act to the extent funds are available.

Sec. 510. Section 71-532, Revised Statutes Supplement, 1994, is amended to read:

71-532. The Department of Health Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations which make the human immunodeficiency virus infection reportable by name in the same manner as communicable diseases under section 71-502.

Sec. 511. Section 71-601, Revised Statutes Supplement, 1994, is amended to read:

71-601. The Department of Health Department of Health and Human Services Finance and Support shall provide for the registration of vital events and shall adopt, promulgate, and enforce such rules and regulations as are necessary to carry out the purposes of sections 71-601 to 71-649.

Sec. 512. Section 71-601.01, Revised Statutes Supplement, 1994, is amended to read:

71-601.01. For purposes of sections 71-601 to 71-649:

(1) Certificate shall mean the record of a vital event; and

(2) Certification shall mean the process of recording, filing, amending, or preserving a certificate, which process may be by any means, including, but not limited to, microfilm, electronic, imaging, photographic, typewritten, or other means designated by the Department of Health Department of Health and Human Services Finance and Support.

Sec. 513. Section 71-602, Revised Statutes Supplement, 1994, is amended to read:

71-602. (1) The Department of Health Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations prescribing all standard forms for registering with or reporting to the department and for certification to the public of any birth, abortion, marriage, annulment, dissolution of marriage, or death registered in Nebraska. Such forms shall (a) provide for the registration of vital events as accurately as possible, (b) secure information about the economic, educational, occupational, and sociological backgrounds of the individuals involved in the registered events and their parents as a basis for statistical research in order to reduce morbidity and mortality and improve the quality of life, (c) accomplish such duties in a manner which will be uniform with forms for reporting similar events which have been established by the United States Public Health Service to the extent such forms are consistent with state law, and (d) permit other deviations from such forms as will reduce the costs of gathering information, increase efficiency, or protect the health and safety of the people of Nebraska without jeopardizing such uniformity.

(2) All information designated by the department on all certificates as being for health data and statistical research shall be confidential and may be released only to the United States Public Health Service or its successor, government health agencies, or a researcher as approved by the department in accordance with its rules and regulations. The department may publish analyses of any information received on the forms for scientific and public health purposes in such a manner as to assure that the identity of any individual cannot be ascertained. The release of such information pursuant to this section shall not make otherwise confidential information a public record.

Sec. 514. Section 71-602.01, Revised Statutes Supplement, 1994, is amended to read:

71-602.01. All information designated by the Department of Health Department of Health and Human Services Finance and Support on all certificates as being for health data and statistical research shall be confidential but may be released to the Department of Social Services Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure for research and statistical purposes. The Department of Social Services Department of Health and Human Services Finance and Support may release cost, health, and associated health risk information from medicaid records to the Department of Health Department of Health and Human Services and the Department of Health and Human Services Regulation and

Licensure for research and statistical purposes. Release of information shall be pursuant to a written agreement between the Department of Health and the Department of Social Services Department of Health and Human Services Finance and Support and the Department of Health and Human Services and between the Department of Health and Human Services Finance and Support and the Department of Health and Human Services Regulation and Licensure. Such agreement shall provide for protection of the security of the content of the information, including access limitations, storage of the information, destruction of the information, and use of the information. The release of such information pursuant to this section shall not make otherwise confidential information a public record.

Sec. 515. Section 71-604.01, Revised Statutes Supplement, 1994, is amended to read:

71-604.01. Upon receipt of a notarized affidavit from the physician that performed sex reassignment surgery on an individual born in this state and a certified copy of an order of a court of competent jurisdiction changing the name of such person, the Department of Health Department of Health and Human Services Finance and Support shall prepare a new certificate of birth in the new name and sex of such person in substantially the same form as that used for other live births. The evidence from which the new certificate is prepared and the original certificate of birth shall be available for inspection only upon the order of a court of competent jurisdiction.

Sec. 516. Section 71-604.05, Revised Statutes Supplement, 1994, is amended to read:

71-604.05. (1) The Bureau of Vital Statistics shall not file (a) a certificate of live birth, (b) a certificate of delayed birth registration for a registrant under twenty-five years of age when an application for such certificate is filed, (c) a certificate of live birth filed after adoption of a Nebraska-born person or a person born outside of the jurisdiction of the United States, or (d) a certificate of live birth issued pursuant to section 71-628 unless the social security number or numbers issued to the parents are furnished by the person seeking to register the birth. No such certificate may be amended to show paternity unless the social security number of the father is furnished by the person requesting the amendment. The social security number shall not be required if no social security number has been issued to the parent or if the social security number is unknown.

(2) Social security numbers (a) shall be recorded on the birth certificate but shall not be considered part of the birth certificate and (b) shall only be used for the purpose of enforcement of child support orders in Nebraska as permitted by Title IV-D of the federal Social Security Act, as amended, or as permitted by section 7(a) of the federal Privacy Act of 1974, as amended. The Department of Health shall make social security numbers available to the Department of Social Services for purposes permitted under Title IV-D of the Social Security Act, as amended.

(3) The Department of Health, Department of Health and Human Services Finance and Support, or on receipt of a written or electronic request by the Department of Social Services Department of Health and Human Services, may release data to the Social Security Administration which is necessary to obtain a social security number and which is contained on the birth certificate of any individual who has applied for or is receiving medicaid or food stamp benefits. The Department of Health Department of Health and Human Services Finance and Support shall make such data available only for the purpose of obtaining a social security number for the individual.

Sec. 517. Section 71-605, Revised Statutes Supplement, 1994, is amended to read:

71-605. (1) The funeral director and embalmer in charge of the funeral of any person dying in the State of Nebraska shall cause a certificate of death to be filled out with all the particulars contained in the standard form adopted and promulgated by the Department of Health Department of Health and Human Services Finance and Support. Such standard form shall include a space for certificate of veteran status and the period of service in the armed forces of the United States as defined in section 80-401.01 and a statement of the cause of death made by a person holding a valid license as a physician who last attended the deceased. Death and fetal death certificates shall be completed by the funeral directors and embalmers and physicians only for the purpose of filing with the Bureau of Vital Statistics.

(2) The physician shall have the responsibility and duty to complete and sign in his or her own handwriting, within twenty-four hours from the time of death, that part of the certificate of death entitled medical certificate of death. In the case of a death when no person licensed as a physician was in attendance, the funeral director and embalmer shall refer the case to the county attorney for a death certificate.

No cause of death shall be certified in the case of the sudden and unexpected death of a child between the ages of one week and three years unless an autopsy is performed at county expense by a qualified pathologist, unless the parents or guardian signs a written waiver of the right to autopsy. The parents or guardian shall be notified of the results of the autopsy by their physician, community health official, or county coroner within forty-eight hours. The term sudden infant death syndrome shall be entered on the death certificate as the principal cause of death when the term is appropriately descriptive of the pathology findings and circumstances surrounding the death of a child.

If the circumstances show it possible that death was caused by neglect, violence, or any unlawful means, the case shall be referred to the county attorney for investigation and certification. The county attorney shall, within twenty-four hours after taking charge of the case, state the cause of death as ascertained, giving as far as possible the means or instrument which produced the death. All death certificates shall show clearly the cause, disease, or sequence of causes ending in death. If the cause of death cannot be determined within the period of time stated above, the death certificate shall be filed to establish the fact of death. As soon as possible thereafter, and not more than six weeks later, supplemental information as to the cause, disease, or sequence of causes ending in death shall be filed with the department to complete the record. For all certificates stated in terms that are indefinite, insufficient, or unsatisfactory for classification, inquiry shall be made to the person completing the certificate to secure the necessary information to correct or complete the record.

(3) A completed death certificate shall be filed with the Bureau of Vital Statistics within five business days after the date of death. If it is impossible to complete the certificate of death within five business days, the funeral director and embalmer shall notify the bureau of the reason for the delay and file the certificate as soon as possible.

(4) Before any dead human body may be cremated, a cremation permit shall first be signed by the county attorney, or by his or her authorized representative as designated by the county attorney in writing, of the county in which the death occurred on a form prescribed and furnished by the Bureau of Vital Statistics.

(5) A permit for disinterment shall be required prior to disinterment of a dead human body. The permit shall be issued by the Bureau of Vital Statistics to a licensed funeral director and embalmer upon proper application. The request for disinterment shall be made by the next of kin of the deceased, as listed in section 71-1339, or a county attorney on a form furnished by the bureau. The application shall be signed by the funeral director and embalmer who will be directly supervising the disinterment. When the disinterment occurs, the funeral director and embalmer shall sign the permit giving the date of disinterment and file the permit with the Bureau of Vital Statistics within ten days of the disinterment.

(6) When a request is made under subsection (5) of this section for the disinterment of more than one dead human body, an order from a court of competent jurisdiction shall be submitted to the Bureau of Vital Statistics prior to the issuance of a permit for disinterment. The order shall include, but not be limited to, the number of bodies to be disinterred if that number can be ascertained, the method and details of transportation of the disinterred bodies, the place of reinterment, and the reason for disinterment. No sexton or other person in charge of a cemetery shall allow the disinterment of a body without first receiving from the Bureau of Vital Statistics a disinterment permit properly completed.

(7) No dead human body shall be removed from the state for final disposition without a transit permit issued by the funeral director and embalmer having charge of the body in Nebraska, except that when the death is subject to investigation, the transit permit shall not be issued by the funeral director and embalmer without authorization of the county attorney of the county in which the death occurred. No agent of any transportation company shall allow the shipment of any body without the properly completed transit permit prepared in duplicate.

(8) The interment, disinterment, or reinterment of a dead human body shall be performed under the direct supervision of a licensed funeral director and embalmer, except that hospital disposition may be made of the dead human body of a stillborn infant with due respect for the stillborn infant and in accordance with existing law when requested by the parents or legal guardian.

(9) All transit permits issued in accordance with the law of the place where the death occurred in a state other than Nebraska shall be signed by the funeral director and embalmer in charge of burial and forwarded to the

Bureau of Vital Statistics within five business days after the interment takes place.

Sec. 518. Section 71-605.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-605.01. Death certificates issued by or under the authority of the United States for persons who were residents of Nebraska at the time they entered the military or armed forces of the United States, and died while in the service of their country while outside the continental limits of the United States may be recorded with the Department of Health Department of Health and Human Services Finance and Support.

Sec. 519. Section 71-605.02, Revised Statutes Supplement, 1994, is amended to read:

71-605.02. The Department of Health Department of Health and Human Services Finance and Support shall preserve permanently and index all such certificates and shall charge and collect in advance the fee prescribed in section 71-612, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, whether or not the record is found on file with the department. All fees so collected shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Finance and Support Cash Fund as provided in section 71-612.

Sec. 520. Section 71-606, Revised Statutes Supplement, 1994, is amended to read:

71-606. A child born dead shall be registered as a fetal death on a certificate form furnished by the Department of Health Department of Health and Human Services Finance and Support. Such certificate shall not be required for a child which has not advanced to the twentieth week of gestation. The certificate shall be filed with the Bureau of Vital Statistics by the funeral director and embalmer in charge of the funeral and shall include a statement of the cause of death made by a person holding a valid license as a physician who was in attendance. In the event of hospital disposition, as provided in section 71-605, the entire certificate shall be completed by the attending physician and subscribed to also by the hospital administrator or his or her designated representative. If the attendant is not a physician, the death shall be referred to the county attorney for certification. The same time limit for completion shall apply as for a regular death certificate.

Sec. 521. Section 71-609, Revised Statutes Supplement, 1994, is amended to read:

71-609. Every retail dealer in caskets shall keep a record of sales, which record shall include the name and post office address of the purchaser and the name and date and place of death of the deceased. A report of sales or no sales shall be forwarded to the Department of Health Department of Health and Human Services Finance and Support on the first day of each month. This requirement shall not apply to persons selling caskets only to dealers or funeral directors and embalmers. Every seller of a casket at retail who does not have charge of the disposition of the body shall enclose within the casket a notice calling attention to the requirements of the law and a blank certificate of death.

Sec. 522. Section 71-610, Reissue Revised Statutes of Nebraska, is amended to read:

71-610. Maternity homes and lying-in hospitals, and places used as such, shall report to the Department of Health Department of Health and Human Services Finance and Support on the first day of each month the sex and date of birth of all children born in their respective institutions during the preceding month. The report shall also show the names and addresses of the parents and attending physicians.

Sec. 523. Section 71-611, Revised Statutes Supplement, 1994, is amended to read:

71-611. The Department of Health Department of Health and Human Services Finance and Support shall supply all necessary blanks, forms, and instructions pertaining to the recording of births and deaths to physicians, hospitals, and funeral directors and embalmers. Upon written request, the department may authorize a funeral director and embalmer licensed in Nebraska to use computer-generated death certificate forms on paper supplied by the department which is of the same quality and identical in form established in department regulations for death certificates which are not computer-generated.

Sec. 524. Section 71-612, Revised Statutes Supplement, 1995, is amended to read:

71-612. (1) The Director of Health Director of Finance and Support,



as the State Registrar, through the Department of Health Department of Health and Human Services Finance and Support shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, annulment, or dissolution of marriage registered. The department shall supply a copy of a public vital record for viewing purposes at its office upon an application signed by the applicant and upon proof of the identity of the applicant. The application may include the name, address, and telephone number of the applicant, purpose for viewing each record, and other information as may be prescribed by the department by rules and regulations to protect the integrity of vital records and prevent their fraudulent use. Except as provided in subsections (2), (3), (5), (6), and (7) of this section, the department shall be entitled to charge and collect in advance a fee of (a) nine dollars until July 1, 1999, and (b) seven dollars on and after July 1, 1999, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, whether or not the record is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record on file with the department upon the request of (a) the United States Department of Veterans Affairs or any lawful service organization empowered to represent veterans if the copy of the record is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department.

(3) The Department of Health Department of Health and Human Services Finance and Support may, free of charge, search for and furnish a certified copy of any record on file with the department when in the opinion of the director of vital statistics it would be a hardship for the claimant of old age, survivors, or disability benefits under the federal Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Such funds shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Finance and Support Cash Fund. Money credited to the fund pursuant to this section shall be used for the purpose of administering the laws relating to vital statistics and may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The department shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any in-hospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that the fee shall not exceed two dollars per individual search or copy requested.

(6) The department may permit use of data from vital records for statistical or research purposes under section 71-602 or disclose data from certificates or records to federal, state, county, or municipal agencies of government for use in administration of their official duties and charge and collect a fee that will recover the department's cost of production of the data. The department may provide access to public vital records for viewing purposes by electronic means, if available, under security provisions which shall assure the integrity and security of the records and data base and shall charge and collect a fee that shall recover the department's costs.

(7) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for access to or a certified copy of any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall charge and collect in advance a fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the record is found on file with the county. All such fees collected shall be remitted to the State Treasurer for credit to the General Fund.

(8) The department shall not charge other state agencies the fees authorized under subsections (1) and (7) of this section for automated review of any certificates. The department shall charge and collect a fee from other state agencies for such automated review that will recover the department's cost.

Sec. 525. Section 71-614, Revised Statutes Supplement, 1994, is amended to read:

71-614. (1) On or before the fifth day of each month, the county clerk of each county shall return to the Department of Health Department of Health and Human Services Finance and Support upon suitable blank forms, to be provided by the department, a statement of all marriages recorded by him or her during the preceding calendar month. If no marriages were performed in the county during the preceding month, a card furnished by the department indicating such information shall be submitted on or before the fifth day of each month to the department. Upon neglect or refusal to make such returns, such county clerk shall, for each such neglect or refusal, forfeit and pay the sum of twenty-five dollars for the use of the proper county, to be collected as debts of like amount are now collectible.

(2) As soon as possible after completion of an amendment to a marriage license by the Bureau of Vital Statistics of the Department of Health Department of Health and Human Services Finance and Support, the department shall forward a noncertified copy of the marriage license reflecting the amendment to the county clerk of the county in which the license was filed. Upon receipt of the amended copy, the county clerk shall make the necessary changes on the marriage license on file in his or her office to reflect the amendment.

Sec. 526. Section 71-615, Reissue Revised Statutes of Nebraska, is amended to read:

71-615. On or before the fifth day of each month, the clerk of the district court of each county shall make and return to the Department of Health Department of Health and Human Services Finance and Support, upon suitable forms furnished by the department, a statement of each action for annulment or dissolution of marriage granted in the court of which he or she is clerk during the preceding calendar month. The information shall be furnished by the petitioner or his or her legal representative and presented to the clerk of the court with the petition. In all cases, the furnishing of the information to complete the record shall be a prerequisite to the granting of the final decree. If no annulments or dissolutions of marriage were granted in the county during the preceding month, a card furnished by the department indicating such information shall be submitted on or before the fifth day of each month to the department. Upon neglect or refusal to make such return, such clerk shall, for each neglect or refusal, forfeit and pay the sum of twenty-five dollars for the use of the county.

Sec. 527. Section 71-616, Reissue Revised Statutes of Nebraska, is amended to read:

71-616. The Department of Health Department of Health and Human Services Finance and Support shall preserve permanently and index all births, deaths, marriages, and divorces received, and shall tabulate statistics therefrom.

Sec. 528. Section 71-616.03, Revised Statutes Supplement, 1994, is amended to read:

71-616.03. The Department of Health Department of Health and Human Services Finance and Support may accept for filing and issue certified copies of vital records generated from microfilm, imaging, electronic means, or any other medium as designated by the department.

Sec. 529. Section 71-616.04, Revised Statutes Supplement, 1994, is amended to read:

71-616.04. To preserve vital records, the Department of Health Department of Health and Human Services Finance and Support may prepare typewritten, photographic, electronic, or other reproductions of certificates or reports of the Bureau of Vital Statistics. Such reproductions, when verified and approved by the department, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as provided by rules and regulations of the department.

Sec. 530. Section 71-616.05, Revised Statutes Supplement, 1995, is amended to read:

71-616.05. It is the intent of the Legislature that the temporary two-dollar increase prescribed in subdivision (1)(a) of section 71-612, subdivision (1) of section 71-617.15, subdivision (1) of section 71-627, subdivision (1) of section 71-628, and subdivision (1) of section 71-634 shall be used to fund the acquisition of an imaging system for the records of the Bureau of Vital Statistics of the Department of Health Department of Health

and Human Services Finance and Support.

Sec. 531. Section 71-617.07, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.07. If an applicant for a certificate of delayed birth registration fails to submit the minimum documentation required for the delayed registration or if the Bureau of Vital Statistics has reasonable cause to question the validity or adequacy of either the applicant's sworn statement or the documentary evidence due to conflicting evidence submitted and if the deficiencies are not corrected, the bureau shall not issue and register a delayed certificate of birth and shall advise the applicant of the reasons for such action. The bureau shall further advise the applicant of his or her right of appeal to the Director of Health Director of Finance and Support and then, if not satisfied, to the county court as provided in section 71-617.08.

Sec. 532. Section 71-617.08, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.08. (1) If a delayed certificate of birth is denied by the Bureau of Vital Statistics and the Director of Health Director of Finance and Support, a petition signed and sworn to by the petitioner may be filed with the county court of Lancaster County, of the county of the petitioner's residence, or of the county in which the birth is claimed to have occurred.

(2) The petition shall be made on a form prescribed and furnished by the Bureau of Vital Statistics and shall allege:

(a) That the person for whom a delayed certificate of birth is sought was born in this state;

(b) That no certificate of birth of such person can be found in the files or records of the Bureau of Vital Statistics;

(c) That diligent efforts by the petitioner have failed to obtain evidence required by sections 71-617.05 and 71-617.06 that is considered acceptable by the Bureau of Vital Statistics;

(d) That the Bureau of Vital Statistics has refused to register a delayed certificate of birth; and

(e) Such other allegations as may be required.

Sec. 533. Section 71-617.09, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.09. A statement of the director of the Bureau of Vital Statistics and the Director of Health Director of Finance and Support indicating why a delayed certificate of birth was not issued and registered and all documentary evidence which was submitted to the bureau in support of such registration shall accompany a petition filed under section 71-617.08.

Sec. 534. Section 71-617.10, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.10. The court shall fix a time and place for a hearing upon a petition filed under section 71-617.08 and shall give the Bureau of Vital Statistics ten calendar days' notice of such hearing. The director of the bureau, the Director of Health Director of Finance and Support, or one of their authorized representatives may appear and testify in the proceeding.

Sec. 535. Section 71-617.15, Revised Statutes Supplement, 1995, is amended to read:

71-617.15. The Department of Health Department of Health and Human Services Finance and Support shall charge and collect a fee of (1) nine dollars until July 1, 1999, and (2) seven dollars on and after July 1, 1999, for each delayed birth certificate application when submitted. Upon request and payment of the fee required by section 71-612, a certified copy of such a certificate shall be furnished by the Director of Health Director of Finance and Support through the Bureau of Vital Statistics. All such fees shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Finance and Support Cash Fund as provided in section 71-612. The department shall charge and collect an additional fee of one dollar for each delayed birth certificate. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the General Fund.

Sec. 536. Section 71-626, Reissue Revised Statutes of Nebraska, is amended to read:

71-626. (1) For each adoption of a Nebraska-born or foreign-born person decreed by any court of this state, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the Bureau of Vital Statistics, Department of Health Department of Health and Human Services Finance and Support. The report shall (a) include the original name, date, and place of birth and the name of the parent or parents of such person; (b) provide information necessary to establish a new certificate of birth of the person adopted; (c) provide the name and address of the child placement agency, if any, which placed the child for adoption;

and (d) identify the decree of adoption and be certified by the clerk of the court.

(2) Information in the possession of the petitioner necessary to prepare the report of adoption shall be furnished with the petition for adoption by each petitioner or his or her attorney. The social or welfare agency or other person concerned shall supply the court with such additional information in his or her possession as may be necessary to complete the report. The supplying of such information shall be a prerequisite to the issuance of a decree.

(3) Whenever an adoption decree is amended or set aside, the clerk of the court shall prepare a report thereof, which shall include such facts as are necessary to identify the original adoption report and the facts amended in the adoption decree as shall be necessary to properly amend the birth record.

(4) Not later than the tenth day after the decree has been entered, the clerk of such court shall forward the report to the Bureau of Vital Statistics, ~~Department of Health,~~ of the Department of Health and Human Services Finance and Support whenever an adoptive birth certificate is to be filed or has already been filed.

Sec. 537. Section 71-626.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-626.01. (1) The Bureau of Vital Statistics, ~~Department of Health, of the Department of Health and Human Services Finance and Support~~ shall establish a new certificate of birth for a person born in the State of Nebraska whenever it receives any of the following:

(a) A report of adoption as provided in section 71-626 on a form supplied by the Bureau of Vital Statistics, ~~Department of Health, of the Department of Health and Human Services Finance and Support~~ or a certified copy of the decree of adoption together with the information required in such report, except that a new certificate of birth shall not be established if so requested in writing by the court decreeing the adoption, the adoptive parents, or the adopted person; or

(b) A report of adoption or a certified copy of the decree of adoption entered in a court of competent jurisdiction of any other state or nation declaring adopted a person born in the State of Nebraska, together with the information necessary to identify the original certificate of birth and to establish the new certificate of birth, except that a new certificate of birth shall not be established when so requested by the court decreeing the adoption, the adoptive parents, or the adopted person.

(2) The new certificate of birth for a person born in the State of Nebraska shall be on the form in use at the time of its preparation and shall include the following items in addition to such other information as may be necessary to complete the form:

(a) The adoptive name of the person;

(b) The names and personal particulars of the adoptive parents;

(c) The date and place of birth as transcribed from the original certificate;

(d) The name of the attendant, printed or typed;

(e) The same birth number as was assigned to the original certificate; and

(f) The original filing date.

The data necessary to locate the existing certificate and the data necessary to complete the new certificate shall be submitted to the Bureau of Vital Statistics.

(3) When an adoptive certificate of birth is established, the actual place of birth and date of birth shall be shown. It shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence of adoption shall not be subject to inspection except (a) upon order of a court of competent jurisdiction, (b) as provided in sections 43-138 to 43-140, (c) as provided in sections 43-146.11 to 43-146.13, or (d) as provided by rules and regulations of the ~~Department of Health~~ Department of Health and Human Services Finance and Support. Upon receipt of notice that an adoption has been set aside, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction.

(4) Whenever a new certificate of birth is established by the Bureau of Vital Statistics, ~~Department of Health of the Department of Health and Human Services Finance and Support~~, all copies of the original certificate of birth in the custody of any custodian of permanent local records in this state shall be sealed from inspection.

(5) The ~~Department of Health~~ Department of Health and Human Services

Finance and Support may adopt and promulgate such rules and regulations as are necessary and proper to assist it in the implementation and administration of section 71-626 and this section.

Sec. 538. Section 71-627, Revised Statutes Supplement, 1995, is amended to read:

71-627. The certificate of birth of adopted children shall be filed as other certificates of birth. There shall be a fee of (1) nine dollars until July 1, 1999, and (2) seven dollars on and after July 1, 1999, charged for each certificate filed. All such fees shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Finance and Support Cash Fund as provided in section 71-612. Upon request and the payment of the fee prescribed by section 71-612, a certified copy of such a certificate may be furnished by the Director of Health Director of Finance and Support through the Bureau of Vital Statistics. The department shall charge and collect an additional fee of one dollar for each certificate furnished. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the General Fund.

Sec. 539. Section 71-627.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-627.01. Whenever a decree of adoption is entered in any court of competent jurisdiction in the State of Nebraska, as to a child born in another state, the judge of the court in which such decree is entered shall, on forms to be furnished by the Director of Health Director of Finance and Support through the Bureau of Vital Statistics, notify the agency having authority to issue adoptive birth certificates in the state in which such child was born for the purpose of securing the issuance of an adoptive birth certificate from the state of birth.

Sec. 540. Section 71-627.02, Revised Statutes Supplement, 1994, is amended to read:

71-627.02. Upon receipt of a Report of Adoption or a certified copy of a decree of adoption issued by any court of competent jurisdiction in the State of Nebraska as to any foreign-born person, the Director of Health Director of Finance and Support through the Bureau of Vital Statistics shall prepare a birth certificate in the new name of the adopted person. The birth certificate shall show specifically (1) the new name of the adopted person, (2) the date of birth and sex of the adopted person, (3) statistical information concerning the adoptive parents in place of the natural parents, and (4) the true or probable place of birth including the city or town and country.

Sec. 541. Section 71-629, Reissue Revised Statutes of Nebraska, is amended to read:

71-629. A certified copy or copies of the certificate of birth of any such legitimized child may be furnished upon request by the Director of Health Director of Finance and Support, through the Bureau of Vital Statistics, but the evidence upon which the new certificate is made and the original certificate of birth shall be available for inspection only upon the order of a court of competent jurisdiction.

Sec. 542. Section 71-630, Reissue Revised Statutes of Nebraska, is amended to read:

71-630. (1) A birth or death certificate filed with the Bureau of Vital Statistics in of the Department of Health Department of Health and Human Services Finance and Support may be amended only in accordance with this section and sections 71-635 to 71-644 and rules and regulations adopted pursuant thereto by the Department of Health Department of Health and Human Services Finance and Support as necessary and proper to protect the integrity and accuracy of records of vital statistics.

(2) A certificate that is amended under this section shall have a properly dated reference placed on the face of the certificate and state that it is amended, except as provided in subsection (4) of this section.

(3) Upon receipt of a certified copy of a court order changing the name of a person born in this state and upon request of such person or his or her parent, guardian, or legal representative, the Bureau of Vital Statistics, Department of Health, of the Department of Health and Human Services Finance and Support shall amend the certificate of birth to reflect the change in name.

(4) Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents, the Bureau of Vital Statistics, Department of Health, of the Department of Health and Human Services Finance and Support shall amend the certificate of birth to show such paternity if paternity is not shown on the birth certificate. Such certificate shall not be marked amended.

Sec. 543. Section 71-634, Revised Statutes Supplement, 1995, is

amended to read:

71-634. The Department of Health Department of Health and Human Services Finance and Support shall charge and collect a fee of (1) nine dollars until July 1, 1999, and (2) seven dollars on and after July 1, 1999, for each proceeding under sections 71-630 and 71-635 to 71-644. The department shall collect the fee prescribed by section 71-612 for a certified copy of the amended record. All fees so collected shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Finance and Support Cash Fund as provided in section 71-612.

Sec. 544. Section 71-640.03, Revised Statutes Supplement, 1994, is amended to read:

71-640.03. (1) In any case in which paternity of a child is determined by a court of competent jurisdiction, the surname of the child may be entered on the record the same as the surname of the father.

(2) The surname of the child shall be the parents' prerogative, except that the Department of Health Department of Health and Human Services Finance and Support shall not accept a birth certificate with a child's surname that implies any obscene or objectionable words or abbreviations.

Sec. 545. Section 71-644, Revised Statutes Supplement, 1994, is amended to read:

71-644. A certificate or report that is amended under sections 71-635 to 71-644 shall indicate that it has been amended as provided by rules and regulations of the Department of Health Department of Health and Human Services Finance and Support. A record shall be maintained which identifies the evidence upon which the amendment was based, the date of the amendment, and the identity of the person making the amendment.

Sec. 546. Section 71-645, Reissue Revised Statutes of Nebraska, is amended to read:

71-645. It is hereby found that the occurrence of malformation or inherited disease at the time of birth is a tragedy for the child, the family, and the community, and a matter of vital concern to the public health. In order to provide for the protection and promotion of the health of the citizens of the state, the Department of Health Department of Health and Human Services Regulation and Licensure shall have the responsibility for the implementation and development of scientific investigations and research concerning the causes, methods of prevention, treatment, and cure of birth defects.

Sec. 547. Section 71-646, Revised Statutes Supplement, 1994, is amended to read:

71-646. The Director of Health Director of Regulation and Licensure shall establish within the Department of Health Department of Health and Human Services Regulation and Licensure a birth defects registry for the purpose of initiating and conducting investigations of the causes, mortality, methods of prevention, treatment, and cure of birth defects and allied diseases. Any information released from the registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

Sec. 548. Section 71-647, Revised Statutes Supplement, 1994, is amended to read:

71-647. (1) The Department of Health Department of Health and Human Services Regulation and Licensure shall have and may exercise the following powers and duties:

(a) To conduct scientific investigations and surveys of the causes, mortality, methods of prevention, treatment, and cure of birth defects;

(b) To publish at least annually the results of such investigations and surveys for the benefit of the public health and to annually collate such publications for distribution to scientific organizations and qualified scientists and physicians;

(c) To carry on programs of professional education and training of medical students, physicians, nurses, scientists, and technicians in the causes, methods of prevention, treatment, and cure of birth defects;

(d) To conduct and support clinical counseling services in medical facilities; and

(e) To secure necessary scientific, educational, training, technical, administrative, and operational personnel and services including laboratory facilities by contract or otherwise from public or private entities in order to carry out the purposes of this section.

(2) Any information released from the birth defects registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

Sec. 549. Section 71-648, Revised Statutes Supplement, 1994, is amended to read:

71-648. Birth defects and allied diseases shall be reported by physicians, hospitals, and persons in attendance at births in the manner and on such forms as may be prescribed by the Department of Health Department of Health and Human Services Regulation and Licensure. Such reports may be included in the monthly report to the department on births as required by section 71-610. Such reports shall be forwarded to the department no later than the tenth day of the succeeding month after the birth. When objection is made by either parent to furnishing information relating to the medical and health condition of a live-born child because of conflict with religion, such information shall not be required to be entered as provided in this section.

Sec. 550. Section 71-649, Revised Statutes Supplement, 1994, is amended to read:

71-649. (1) Any person who (a) willfully and knowingly makes any false statement in a certificate, record, or report required to be filed pursuant to sections 71-601 to 71-648, in an application for an amendment thereof, or in an application for a certified copy of a vital record or willfully and knowingly supplies false information intending that such information be used in the preparation of any such report, record, certificate, or amendment thereof; (b) without lawful authority and with the intent to deceive, makes, counterfeits, alters, amends, or mutilates any certificate, record, or report required to be filed pursuant to such sections or a certified copy of such certificate, record, or report; (c) willfully and knowingly obtains, possesses, uses, sells, furnishes, or attempts to obtain, possess, use, sell, or furnish to another, for any purpose of deception, any certificate, record, report, or certified copy thereof so made, counterfeited, altered, amended, or mutilated; (d) with the intention to deceive, willfully and knowingly obtains, possesses, uses, sells, furnishes, or attempts to obtain, possess, use, sell, or furnish to another any certificate of birth or certified copy of a certificate of birth knowing that such certificate or certified copy was issued upon a certificate which is false in whole or in part or which relates to the birth of another person, whether living or deceased; (e) willfully and knowingly furnishes or possesses a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it be used for the purposes of deception by a person other than the person to whom the certificate of birth relates; or (f) without lawful authority possesses any certificate, record, or report required by such sections or a copy or certified copy of such certificate, record, or report knowing the same to have been stolen or otherwise unlawfully obtained shall be guilty of a Class IV felony.

(2) Any person who (a) willfully and knowingly refuses to provide information required by such sections or rules and regulations adopted under this section and section 71-640.01 or (b) willfully and knowingly neglects or violates any of the provisions of sections 71-601 to 71-648 or refuses to perform any of the duties imposed upon him or her under such sections shall be guilty of a Class I misdemeanor.

(3) The Department of Health Department of Health and Human Services Regulation and Licensure may include on any appropriate certificate or document a statement warning of the consequences for any violation of this section.

Sec. 551. Section 71-901, Revised Statutes Supplement, 1995, is amended to read:

71-901. (1) The Department of Health Department of Health and Human Services Regulation and Licensure shall inquire into the whole system of public charities and methods and practices in the public and correctional institutions of the state, counties, and cities to ascertain the condition thereof from time to time by inspection or otherwise, especially of prisons, jails, infirmaries, public hospitals, including hospitals for persons with a mental disorder and persons with mental retardation, all correctional institutions, including the Youth Rehabilitation and Treatment Center-Kearney and the Youth Rehabilitation and Treatment Center-Geneva, and industrial schools.

(2) The Department of Health Department of Health and Human Services Regulation and Licensure shall make at least one inspection every year of each state public and correctional institution, which inspection may be unannounced, and such inspections shall not require the permission of any director of the department or of the institution to be inspected. The inspection of state public and correctional institutions shall include an inspection of the dietary facilities at the institution.

(3) The Department of Health Department of Health and Human Services Regulation and Licensure shall enforce this section and all other statutes pertaining to public health and sanitation with respect to the public and correctional institutions of the state, counties, and cities. The department

shall adopt, promulgate, and enforce necessary rules and regulations for carrying out this section. It may also adopt and promulgate rules and regulations supplementing but not inconsistent with this section.

(4) The Department of Health Department of Health and Human Services Regulation and Licensure shall make an investigation and report to the Department of Social Services, within thirty days after receipt of the request by the Department of Social Services, of all facilities and programs of licensed providers of child care programs as defined in section 71-1910 or foster care programs subject to section 71-1903 or applicants for licenses to provide such programs to determine if the place or places to be covered by such licenses meet standards of health and sanitation set by the Department of Social Services Department of Health and Human Services Regulation and Licensure for the care and protection of the child or children who may be placed in such facilities and programs. The Department of Health Department of Health and Human Services Regulation and Licensure may delegate this authority to qualified local environmental health personnel.

Sec. 552. Section 71-902, Reissue Revised Statutes of Nebraska, is amended to read:

71-902. Whenever complaint in writing shall be made against a private charity, hospital, asylum, reformatory, orphanage, maternity home, poorhouse, home for aged, or for wayward or neglected boys or girls, dependent children, or house of correction, alleging that such home or institution is conducted in an insanitary or unlawful manner, the Department of Health Department of Health and Human Services Regulation and Licensure shall inspect such home or institution, and shall cause civil or criminal proceedings to be brought against the home, institution, or persons if found to be violating this or any other statute.

Sec. 553. Section 71-903, Reissue Revised Statutes of Nebraska, is amended to read:

71-903. The officers in charge of all such institutions, and any officers for the distribution of public outdoor relief, shall at all times furnish to the board, upon its request, such information and statistics as it may require. To secure accuracy, uniformity, and completeness in statistics, the Department of Health Department of Health and Human Services Regulation and Licensure may prescribe such forms of reports and registration as it may deem essential.

Sec. 554. Section 71-904, Reissue Revised Statutes of Nebraska, is amended to read:

71-904. The plans for all new jail buildings, lockups, infirmaries, or reformatories shall, before the adoption of the same by the state, county, or municipal authorities, be submitted to the Department of Health Department of Health and Human Services Regulation and Licensure for examination and approval.

Sec. 555. Section 71-905, Reissue Revised Statutes of Nebraska, is amended to read:

71-905. The Department of Health Department of Health and Human Services Regulation and Licensure may at any time inquire into the management of any state and county penal, reformatory, or charitable institution in the state, and the department, in making such investigation, shall have power to send for persons and papers, and to administer oaths and affirmations. All investigations undertaken by the department shall be directed wholly toward the betterment of methods pertaining to the health, punishment, education, and reformation of the inmates of the various institutions described in sections 71-901 to 71-905, and the procuring of legislation to that end.

Sec. 556. Section 71-1001, Revised Statutes Supplement, 1994, is amended to read:

71-1001. The heads of the anatomy departments of the medical schools and colleges of this state, one professor of anatomy appointed by the head of the anatomy department from each medical school or college of this state, one professor of anatomy appointed from each dental school or college of this state, and one layperson appointed by the Department of Health Department of Health and Human Services Regulation and Licensure shall constitute the State Anatomical Board of the State of Nebraska for the distribution, delivery, and use of certain dead human bodies, described in section 71-1002, to and among such schools, colleges, and persons as are entitled thereto under the provisions of such section. The board shall have power to establish rules and regulations for its government and for the collection, storage, and distribution of dead human bodies for anatomical purposes. It shall have power to appoint and remove its officers and agents. It shall keep minutes of its meetings. It shall cause a record to be kept of all of its transactions, of bodies received and distributed by it, and of the school, college, or person receiving every such body, and its records shall be



open at all times to the inspection of each member of the board and to every county attorney within this state.

Sec. 557. Section 71-1301, Revised Statutes Supplement, 1994, is amended to read:

71-1301. For purposes of sections 71-1301 to 71-1306 and 71-1326 to 71-1354, unless the context otherwise requires:

(1) Accredited school of mortuary science shall mean a school of the same type as those rated Class A by the Conference of Funeral Service Examining Boards of the United States, Inc., approved by the department upon recommendation of the board;

(2) Apprentice shall mean a person registered with the department as an apprentice who is completing a twelve-month apprenticeship under the supervision of a licensed funeral director and embalmer practicing in the State of Nebraska. The licensed funeral director and embalmer shall be responsible for all funeral assists and embalmings completed by the apprentice;

(3) Board shall mean the Board of Examiners in Funeral Directing and Embalming;

(4) Branch establishment shall mean a place of business situated at a specific street address or location which is a subsidiary of a licensed funeral establishment, which contains a casket display room, a viewing area, or an area for conducting funeral services, or all of them, and where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted;

(5) Casket shall mean a receptacle for a dead human body and shall not include vaults, lawn crypts, mausoleums, or other outside receptacles for caskets;

(6) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(7) Embalming shall mean the practice of preparing a dead human body for burial or other final disposal by a licensed funeral director and embalmer or an apprentice, requesting and obtaining burial or removal permits, or assuming any of the other duties incident to the practice of embalming. Any person who publicly professes to be a funeral director and embalmer or an apprentice shall be deemed to be practicing embalming. The performance of the following acts shall also be deemed the practice of embalming: (a) The disinfection and preservation of dead human beings, entire or in part; and (b) the attempted disinfection and preservation thereof by the use or application of chemical substances, fluids, or gases ordinarily used, prepared, or intended for such purposes, either by outward application of such chemical substances, fluids, or gases on the body or by introducing them into the body, by vascular or hypodermic injection, or by direct introduction into the organs or cavities;

(8) Funeral directing shall mean (a) counseling families or next of kin in regard to the conduct of a funeral service for a dead human body for burial, disposition, or cremation or directing or supervising burial, disposition, or cremation of dead human bodies. Cremation shall be considered as a final disposition of a dead human body the same as interment, (b) providing for or maintaining a funeral establishment, or (c) the act of representing oneself as or using in connection with one's name the title of funeral director, mortician, or any other title implying that he or she is engaged in the business of funeral directing;

(9) Funeral establishment shall mean a place of business situated at a specific street address or location devoted to the care and preparation of dead human bodies for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies;

(10) Licensee shall mean a person licensed by the department as a funeral director and embalmer on or after January 1, 1994, or a person licensed as a funeral director or embalmer prior to January 1, 1994;

(11) Licensure examination shall mean a national standardized examination, the state jurisprudence examination, and the vital statistic forms examination; and

(12) Supervision shall mean the direct oversight or the easy availability of the supervising funeral director and embalmer. The first twenty-five funeral assists and embalmings shall be completed under direct onsite supervision of the supervising funeral director and embalmer.

Sec. 558. Section 71-1333.01, Revised Statutes Supplement, 1994, is amended to read:

71-1333.01. (1) The department shall deny an application for a license as a funeral establishment or branch establishment, revoke or suspend a license, or refuse renewal of such a license on any of the following grounds:

- (a) Conviction of any crime involving moral turpitude;
- (b) Obtaining a license as a funeral establishment or a branch establishment by false representation or fraud;
- (c) Operating a funeral establishment or branch establishment without a manager responsible for the operations of the establishment;
- (d) A conviction of a violation of any of the provisions of sections 71-147, 71-148, 71-1301 to 71-1306, and 71-1326 to 71-1354;
- (e) Unprofessional conduct, which is hereby defined to include (i) misrepresentation or fraud in the conduct of a funeral establishment or branch establishment or (ii) aiding or abetting an unlicensed person to practice funeral directing and embalming; or
- (f) Violation of the rules and regulations governing the practice of funeral directing and embalming.

(2) If the department determines to deny the application for a license as or to revoke, suspend, or refuse renewal of the license of a funeral establishment or branch establishment, it shall send to the applicant or licensee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, revocation, suspension, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such thirty-day period, requests a hearing in writing. The applicant or licensee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or licensee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or licensee within such thirty-day period appeals the decision pursuant to section 71-1333.03. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations of the department.

(3) The proceeding shall be summary in its nature and triable as an equity action. Affidavits may be received in evidence in the discretion of the Director of Health Department of Health and Human Services Regulation and Licensure. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing, the director may, through entry of an order, exercise in his or her discretion any or all of the following powers:

- (a) Issue a censure or reprimand against the manager;
- (b) Suspend judgment;
- (c) Place the manager on probation;
- (d) Place a limitation or limitations on the license and upon the

right of the manager to operate a funeral establishment or branch establishment to the extent, scope, or type of operation, for such time, and under such conditions as the director finds necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;

- (e) Impose a civil penalty not to exceed ten thousand dollars;
- (f) Enter an order of suspension of the license;
- (g) Enter an order of revocation of the license; or
- (h) Dismiss the action.

(4) The manager of a funeral establishment or branch establishment shall not operate such establishment after its license is revoked or during the time for which it is suspended. If a funeral establishment or branch establishment license is suspended, the suspension shall be for a definite period of time to be fixed by the director. Such license shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If such license is revoked, such revocation shall be permanent, except that at any time after the expiration of two years application may be made for reinstatement of any manager whose funeral establishment or branch establishment license has been revoked. Such application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board.

(5) The amount of any civil penalty assessed under this section shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation

continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any. The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application. Any civil penalty assessed and unpaid under 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 a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days from receipt remit any collected civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 559. Section 71-1340, Revised Statutes Supplement, 1994, is amended to read:

71-1340. A decedent, prior to his or her death, may direct the preparation for type or place of interment of his or her remains, either by oral or written instructions. If such instructions are in a will or other written instrument, he or she may direct that the whole or any part of such remains be given to a teaching institution, university, college, or legally licensed hospital, to the ~~Director of Health~~ Director of Regulation and Licensure, or to or for the use of any nonprofit blood bank, artery bank, eye bank, or other therapeutic service operated by any agency approved by the ~~Director of Health~~ Director of Regulation and Licensure under rules and regulations established by the director. The person or persons otherwise entitled to control the disposition of the remains under this section shall faithfully carry out the directions of the decedent.

If such instructions are contained in a will or other written instrument, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

This section shall be administered and construed to the end that such expressed instructions of any person shall be faithfully and promptly performed.

A funeral director and embalmer, physician, or cemetery authority shall not be liable to any person or persons for carrying out such instructions of the decedent, and any teaching institution, university, college, or legally licensed hospital or the ~~Director of Health~~ Director of Regulation and Licensure shall not be liable to any person or persons for accepting the remains of any deceased person under a will or other written instrument as above set forth.

Sec. 560. Section 71-1341, Reissue Revised Statutes of Nebraska, is amended to read:

71-1341. A written authorization for an autopsy given by the survivor or survivors, as enumerated in section 71-1339, having the right to control the disposition of remains may, when not inconsistent with any directions given by the decedent pursuant to section 71-1340, include authorization for the removal of any specifically named organ or organs for therapeutic or scientific purposes. Pursuant to any such written authorization, any structure or organ may be given to the ~~Director of Health~~ Director of Regulation and Licensure or to any other therapeutic service operated by any nonprofit agency approved by the ~~Director of Health~~ Director of Regulation and Licensure, including, but not limited to, a teaching institution, university, college, legally licensed hospital, nonprofit blood bank, nonprofit artery bank, nonprofit eye bank, or nationally recognized nonprofit hormone and pituitary program. The person or persons performing any autopsy shall do so within a reasonable time and without delay and shall not exceed the removal permission contained in such written authorization, and the remains shall not be significantly altered in external appearance nor shall any portion thereof be removed for purposes other than those expressly permitted in this section.

Sec. 561. Section 71-1401, Reissue Revised Statutes of Nebraska, is amended to read:

71-1401. There is hereby created a committee for medically handicapped children, to be known as the Medically Handicapped Children's Committee, and composed of nine members appointed by the Governor, two of whom shall be duly licensed practicing physicians and surgeons in the State of Nebraska. The members of such committee shall serve without salary or compensation but they shall be reimbursed by the ~~Department of Social Services~~ Department of Health and Human Services for their actual and necessary expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177, ~~for state employees.~~ In every fourth year, dating from the year 1938, three members of the committee, and in every other year two members of the committee, shall be appointed, each of whom shall serve for the period of four years, or until a successor has been appointed

and has accepted. Vacancies shall be filled by appointment of the Governor for unexpired terms.

Sec. 562. Section 71-1403, Reissue Revised Statutes of Nebraska, is amended to read:

71-1403. It shall be the duty of the Medically Handicapped Children's Committee to serve in an advisory capacity to the Department of Social Services Department of Health and Human Services or any other board, commission, division, agency, officer, or employee of the State of Nebraska, legally charged with the duty of exercising supervision over and administering services to medically handicapped children of the State of Nebraska.

Sec. 563. Section 71-1405, Reissue Revised Statutes of Nebraska, is amended to read:

71-1405. Within thirty days after the date of the birth of any child born in this state with visible congenital deformities, the physician, midwife, or person acting as midwife, who shall be in attendance upon such birth, shall prepare and file with the Bureau of Vital Statistics through the Director of Health Department of Health and Human Services Finance and Support, a statement setting forth such visible congenital deformity. The form of such statement shall be prepared by the director, and shall be a part of the birth report furnished by the Bureau of Vital Statistics.

Sec. 564. Section 71-1557, Revised Statutes Supplement, 1994, is amended to read:

71-1557. As used in the Nebraska Uniform Standards for Modular Housing Units Act, unless the context otherwise requires:

(1) Modular housing unit shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities. Modular housing units shall be taxed as real estate;

(2) Living unit shall mean any portion of a modular housing unit which contains living facilities including provisions for sleeping, eating, cooking, and sanitation for no more than one family;

(3) Seal shall mean a device or insignia issued by the Department of Health Department of Health and Human Services Regulation and Licensure to be displayed on the exterior of the modular housing unit to evidence compliance with departmental standards;

(4) Dealer shall mean any person other than a manufacturer who sells, offers to sell, distributes, or leases modular housing units primarily to persons who in good faith purchase or lease a modular housing unit for purposes other than resale;

(5) Manufacturer shall mean any person who manufactures or produces modular housing units;

(6) Person shall mean any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing modular housing units; and

(7) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 565. Section 71-1559, Revised Statutes Supplement, 1994, is amended to read:

71-1559. Every modular housing unit, except those constructed or manufactured by any school district or community college area as a part of a buildings trade or other instructional program offered by such district or area, manufactured more than six months after July 10, 1976, which is sold, offered for sale, or leased in this state shall bear a seal issued by the department certifying that the construction and the structural, plumbing, heating, and electrical systems of such modular housing unit have been installed in compliance with the standards adopted by the department applicable at the time of manufacture. Each manufacturer of such modular housing units, except those constructed or manufactured by such school district or community college area, shall submit its plans to the department for the purposes of inspection. The department shall establish a compliance assurance program consisting of an application form and a compliance assurance manual. Such manual shall identify and list all procedures which the manufacturer and the inspection agency propose to implement to assure that the finished modular housing unit conforms to the approved building system and the applicable codes adopted by the department. The compliance assurance program requirements shall apply to all inspection agencies, whether department or authorized third party, and shall define duties and responsibilities in the process of inspecting, monitoring, and issuing seals for modular housing units. The department shall issue the seal only after ascertaining that the manufacturer is in full compliance with the compliance assurance program through inspections at the plant by the department or authorized third-party

inspection agency. Such inspections shall be of an unannounced frequency such that the required level of code compliance performance is implemented and maintained throughout all areas of plant and site operations that affect regulatory aspects of the construction. Each seal issued by the department shall remain the property of the department and may be revoked by the department in the event of violation of the conditions of issuance. A fee of not less than eighty and not more than four hundred dollars per living unit as determined by departmental regulation shall be charged for each seal issued by the department. Inspection fees shall be paid for all departmental inspections of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual departmental travel and inspection expenses only and shall be paid prior to any issuance of seals. All fees collected under the Nebraska Uniform Standards for Modular Housing Units Act shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

Sec. 566. Section 71-1565, Revised Statutes Supplement, 1994, is amended to read:

71-1565. The Director of Health Director of Regulation and Licensure shall appoint seven citizens of the state to a modular housing advisory board. Board membership shall include one person from each of the fields of industrial management, architecture, professional engineering, organized labor, and municipal building inspection, one manufacturer, and one dealer. No business entity shall be represented by more than one member on the advisory board at any time.

All appointments shall be for terms of four years. All such members shall serve until their successors are appointed and qualified. No member shall serve more than two successive four-year terms. All members serving on April 18, 1992, shall complete their terms. Vacancies in the membership of the advisory board for any cause shall be filled by appointment by the director for the unexpired term.

Members shall receive no compensation but shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

The department shall not propose, adopt, or approve any rule, regulation, or standard under the Nebraska Uniform Standards for Modular Housing Units Act, except standards relating to electrical systems, until it has first been approved by the advisory board.

Sec. 567. Section 71-1617, Reissue Revised Statutes of Nebraska, is amended to read:

71-1617. In formulating rules, regulations, or other orders for the establishment of a health district or the carrying out of the purpose of sections 71-1601 to 71-1625 or for the management or control of any property which may come under the care or management of the board, the board and the director shall conform at least to the minimum requirements, rules, and regulations of the Department of Health Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support and the principles of public health and sanitation and the remedial care and treatment of the indigent sick people recognized by the medical profession.

Sec. 568. Section 71-1626, Revised Statutes Supplement, 1994, is amended to read:

71-1626. A county, district, or city-county health department shall mean a state-approved local full-time public health service (1) utilizing local, state, federal, and other funds or any combination thereof, (2) employing qualified public health medical, nursing, environmental health, health education, and other essential personnel who work under the direction and supervision of a full-time qualified medical director or of a full-time qualified lay administrator, are well-trained in public health work, and are assisted at least part time by at least one medical consultant who shall be a licensed physician, and (3) conducted in conformity with the rules, regulations, and policies of the Department of Health Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support. The medical director or lay administrator shall be called the health director.

Sec. 569. Section 71-1628, Revised Statutes Supplement, 1994, is amended to read:

71-1628. The county board of any county may (1) make an agreement with the Department of Health Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, or the

Department of Health and Human Services Finance and Support relative to the expenditure of local, state, federal, and other funds or any combination thereof, available for public health in such county; (2) after notice and public hearing, establish and maintain a single full-time local health department for such county and any other counties which combine for that purpose and, pursuant to such combination or agreement, such counties may cooperate with one another and the Department of Health Department of Health and Human Services Regulation and Licensure and may contribute to a joint fund in carrying out the purpose and intent of sections 71-1626 to 71-1636. The duration and nature of such agreement shall be evidenced by the resolutions of the county boards of such counties and such agreement shall be submitted to and approved by the Department of Health Department of Health and Human Services Regulation and Licensure; or (3) cooperate with any city which has an established department of health in the establishment and maintenance of a city-county health department. The duration and nature of such an agreement shall be evidenced by resolutions of the city council of the city and the county board participating and such agreement shall be submitted to and approved by the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 570. Section 71-1630, Revised Statutes Supplement, 1994, is amended to read:

71-1630. (1) When a health department has been established by the county board of a county and approved by the Department of Health Department of Health and Human Services Regulation and Licensure as a county health department, the county board of such county shall appoint a board of health, which shall consist of the following members: (a) One member of the county board; (b) one dentist; (c) one physician; and (d) six public-spirited men or women interested in the health of the community. The physician and dentist shall each serve an initial term of three years. Three public-spirited men or women shall each serve an initial term of three years, and three public-spirited men or women shall each serve an initial term of two years. After the initial terms of office expire, each new appointment shall be for a term of three years. Appointments to fill any vacancies shall be for the unexpired term of the member whose term is being filled by such appointment. A county association or society of dentists or physicians or its managing board may submit each year to the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(2) When a district health department has been established by a joint resolution of the county boards of each county in a district health department, the county boards of such district shall meet and establish a district board of health with due consideration for a fair and equitable representation from the entire area to be served. The district board of health shall consist of the following members: (a) One member of each county board in the district, (b) at least one physician, (c) at least one dentist, and (d) one or more public-spirited men or women interested in the health of the community from each county in the district. One-third of the members shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years. After their terms of office expire, each new appointment shall be for a term of three years. Appointments to fill any vacancies shall be for the unexpired terms. A county association or society of dentists or physicians or its managing board may submit each year to the county boards a list of three persons of recognized ability in such profession. If such a list is submitted, the county boards, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(3) When the county board of any county and the city council of any city located in such county have drawn up an agreement, approved by the Department of Health Department of Health and Human Services Regulation and Licensure, for maintaining a city-county health department, the city and county shall establish a city-county board of health. It shall consist of the following members selected by a majority vote of the city council and the county board, with due consideration to be given in an endeavor to secure a fair and equitable representation from the entire area to be served: (a) One representative of the county board, (b) one representative from the city council, (c) one physician, (d) one dentist, and (e) five public-spirited men or women, not employed in the health industry or in the health professions, who are interested in the health of the community. One-third of its members shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years. After their terms of office expire, each new appointment shall be for a period of three years. A county

association or society of dentists or physicians or its managing board may submit each year to the city council and the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the city council and the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

Sec. 571. Section 71-1631, Revised Statutes Supplement, 1994, is amended to read:

71-1631. The board of health of each county, district, or city-county health department organized under sections 71-1626 to 71-1636 shall, immediately after appointment, meet and organize by the election of one of its own members as president, one as vice president, and another as secretary and, either from its own members or otherwise, a treasurer and shall have the power set forth in this section. The board may elect such other officers as it may deem necessary and may adopt and promulgate such rules and regulations for its own guidance and for the government of such health department as may be necessary, not inconsistent with sections 71-1626 to 71-1636. The board of health shall, with the approval of the county board and the municipality, whenever a city is a party in such a city-county health department:

(1) Select the health director of such department who shall be (a) well-trained in public health work though he or she need not be a graduate of an accredited medical school, but if he or she is not such a graduate, he or she shall be assisted at least part time by at least one medical consultant who shall be a licensed physician, (b) qualified in accordance with the merit system regulations of the state, and (c) approved by the Department of Health Department of Health and Human Services Regulation and Licensure;

(2) Hold an annual meeting each year, at which meeting officers shall be elected for the ensuing year;

(3) Hold meetings quarterly each year;

(4) Hold special meetings upon a written request signed by two of its members and filed with the secretary;

(5) Provide suitable offices, facilities, and equipment for the health director and assistants and their pay and traveling expenses in the performance of their duties, with mileage to be computed at the rate provided in section 23-1112;

(6) Publish, on or soon after the second Tuesday in July of each year, in pamphlet form for free distribution, an annual report showing (a) the condition of its trust for each year, (b) the sums of money received from all sources, giving the name of any donor, (c) how all money has been expended and for what purpose, and (d) such other statistics and information with regard to the work of such health department as may be of general interest;

(7) Enact rules and regulations, subsequent to public hearing held after due public notice of such hearing by publication at least once in a newspaper having general circulation in the county or district at least ten days prior to such hearing, and enforce the same for the protection of public health and the prevention of communicable diseases within its jurisdiction, subject to the review and approval of such rules and regulations by the Department of Health Department of Health and Human Services Regulation and Licensure;

(8) Make all necessary sanitary and health investigations and inspections;

(9) In counties having a population of more than three hundred thousand inhabitants, enact rules and regulations for the protection of public health and the prevention of communicable diseases within the district, except that such rules and regulations shall have no application within the jurisdictional limits of any city of the metropolitan class and shall not be in effect until (a) thirty days after the completion of a three-week publication in a legal newspaper, (b) approved by the county attorney with his or her written approval attached thereto, and (c) filed in the office of the county clerk of such county;

(10) Investigate the existence of any contagious or infectious disease and adopt measures, with the approval of the Department of Health Department of Health and Human Services Regulation and Licensure, to arrest the progress of the same;

(11) Distribute free as the local needs may require all vaccines, drugs, serums, and other preparations obtained from the Department of Health Department of Health and Human Services or purchased for public health purposes by the county board;

(12) Upon request, give professional advice and information to all city, village, and school authorities on all matters pertaining to sanitation and public health;



(13) Fix the salaries of all employees, including the health director. Such city-county health department may also establish an independent pension plan, retirement plan, or health insurance plan or, by agreement with any participating city or county, provide for the coverage of officers and employees of such city-county health department under such city or county pension plan, retirement plan, or health insurance plan. Officers and employees of a county health department shall be eligible to participate in the county pension plan, retirement plan, or health insurance plan of such county;

(14) Establish fees for the costs of all services, including those services for which third-party payment is available; and

(15) In addition to powers conferred elsewhere in the laws of the state and notwithstanding any other law of the state, implement and enforce an air pollution control program under subdivision (23) of section 81-1504 or subsection (1) of section 81-1528, which program shall be consistent with the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall include without limitation those involving injunctive relief, civil penalties, criminal fines, and burden of proof. Nothing in this section shall preclude the control of air pollution by resolution, ordinance, or regulation not in actual conflict with the state air pollution control regulations.

Sec. 572. Section 71-1635, Reissue Revised Statutes of Nebraska, is amended to read:

71-1635. When the county board of any county or counties creates a health department as provided by sections 71-1626 to 71-1636, every other local, municipal, or county public health agency or department, except city or county hospitals, may be abolished, and ~~and such county or district health department may be given full control over all health matters in the county or counties, including all municipalities therein in conformity with the rules, regulations, and policies of the State of Nebraska Department of Health Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support.~~ When a municipality has joined in the establishment of a city-county health department, such city-county health department may be given such control over all health matters in the municipality as may be provided by agreement between the county and the municipality, with the approval of the State of Nebraska Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 573. Section 71-1637, Revised Statutes Supplement, 1994, is amended to read:

71-1637. (1) Any city by its mayor and council or by its commission, any village by its village board, any county by its board of supervisors or commissioners, or any township by its electors shall have power to employ a visiting community nurse, a home health nurse, or a home health agency defined in subdivision (19) of section 71-2017.01 and the rules and regulations adopted and promulgated pursuant to such section. Such nurses or home health agency shall do and perform such duties as the city, village, county, or township, by their officials and electors, shall prescribe and direct. The city, village, county, or township shall have the power to levy a tax, not exceeding three and five-tenths cents on each one hundred dollars on the taxable valuation of the taxable property of such city, village, county, or township, for the purpose of paying the salary and expenses of such nurses or home health agency. Each shall have the power to constitute and empower such nurses or home health agency with police power to carry out the order of such city, village, county, or township organization.

(2) The governing body of any city, village, county, or township may contract with any visiting nurses association, licensed hospital home health agency, or other licensed home health agency, including those operated by the Department of Health Department of Health and Human Services, to perform the duties contemplated in subsection (1) of this section, subject to the supervision of the governing body, and may pay the expense of such contract out of the general funds of the city, village, county, or township.

(3) Nothing in this section shall be construed to allow any city, village, county, township, nurse, or home health agency to (a) avoid the requirements of individual licensure, (b) perform any service beyond the scope of practice of licensure or beyond the limits of licensure prescribed by subdivision (19) of section 71-2017.01, or (c) violate any rule or regulation adopted and promulgated by the department Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, or the Department of Health and Human Services Finance and Support.

Sec. 574. Section 71-1710, Reissue Revised Statutes of Nebraska, is amended to read:

71-1710. Department shall mean the Department of Health of the



State of Nebraska Department of Health and Human Services Regulation and Licensure.

Sec. 575. Section 71-1737, Reissue Revised Statutes of Nebraska, is amended to read:

71-1737. Notwithstanding the provisions of any other statute, any person, corporation, association, or other entity who engages in any of the following activities shall be guilty of a Class IV felony:

(1) Engaging in the practice of anesthesia as a certified registered nurse anesthetist without being issued a certificate as such by the department, with the approval of the board and the board of examiners;

(2) Knowingly employing or offering to employ any person as a certified registered nurse anesthetist when knowing that such person is not certified as such by the Department of Health Department of Health and Human Services Regulation and Licensure, with the approval of the board and the board of examiners;

(3) Fraudulently seeking, obtaining, or furnishing a certificate as a certified registered nurse anesthetist, or aiding and abetting such activities; or

(4) Using in connection with his or her name the title certified registered nurse anesthetist, the abbreviation C.R.N.A., or any other designation tending to imply that he or she is a certified registered nurse anesthetist, certified by the department with the approval of the board and the board of examiners pursuant to sections 71-1729 to 71-1737, when such person is not actually a certified registered nurse anesthetist.

Sec. 576. Section 71-1745, Reissue Revised Statutes of Nebraska, is amended to read:

71-1745. Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 577. Section 71-1768, Reissue Revised Statutes of Nebraska, is amended to read:

71-1768. For purposes of the Nursing Incentive Act:

(1) Approved nursing program shall mean a program offered by a public or private institution in this state (a) which consists of courses of instruction in regularly scheduled classes leading to a master of science degree, a bachelor of science degree, an associate degree, or a diploma in nursing or (b) for the preparation for licensure as a licensed practical nurse available to regularly enrolled undergraduate or graduate students who reside in Nebraska and have received a high school diploma or its equivalent;

(2) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(3) Full-time practice of nursing shall mean employment in the practice of nursing for no fewer than one thousand six hundred hours per year, except that up to four hundred hours per year may be waived by the department upon a showing that there was a valid reason for the nurse's inability to practice nursing for that number of hours, including medical or maternity leave;

(4) Nontraditional student shall mean a student who has not attended classes as a regular full-time student for at least three years;

(5) Practice of nursing shall have the definition found in section 71-1,132.05; and

(6) Rural area shall mean the area included within the boundaries of any county having a population of sixty thousand inhabitants or less.

Sec. 578. Section 71-1774, Revised Statutes Supplement, 1994, is amended to read:

71-1774. For purposes of the Licensed Practical Nurse-Certified Act:

(1) Administration shall include observing, initiating, monitoring, discontinuing, maintaining, regulating, adjusting, documenting, assessing, planning, intervening, and evaluating;

(2) Approved certification course shall mean a course for the education and training of a licensed practical nurse-certified which the board has approved;

(3) Board shall mean the Board of Nursing;

(4) Delegation shall mean the decision by a registered nurse to give the responsibility for the performance of an act or procedure to a licensed practical nurse-certified;

(5) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(6) Direct supervision shall mean that the licensed practitioner or registered nurse shall be in the clinical area and shall retain accountability for patient care;

(7) Initial venipuncture shall mean the initiation of intravenous

therapy based on a new order from a licensed practitioner for an individual for whom a previous order for intravenous therapy was not in effect;

(8) Intravenous therapy shall mean the therapeutic infusion or injection of substances through the venous system;

(9) Licensed practical nurse-certified shall mean a licensed practical nurse providing services in a long-term care facility or in a hospital with a licensed bed capacity of fifty beds or less who meets the standards established pursuant to section 71-1777 and who holds a valid certificate issued by the department pursuant to the act;

(10) Licensed practitioner shall mean any person authorized by state law to prescribe intravenous therapy and nasogastric tube insertion;

(11) Nasogastric tube insertion shall mean the placing of a tube via the nares or mouth into the stomach; and

(12) Pediatric patient shall mean a patient who is younger than eighteen years old and who weighs thirty-five kilograms or less.

Sec. 579. Section 71-1802, Reissue Revised Statutes of Nebraska, is amended to read:

71-1802. The Director of Health Director of Regulation and Licensure is hereby authorized to issue permits for the use of the aforesaid materials in the prevention or control of diseases in humans, if in his or her opinion there is sufficient warrant for their utilization for the aforesaid purpose. The Director of Health Director of Regulation and Licensure shall certify to the State Veterinarian the materials or substances that he or she considers contain live microorganisms which are pathogenic to humans. The director is hereby further authorized to promulgate rules and regulations to carry out the provisions of this section.

Sec. 580. Section 71-1803, Reissue Revised Statutes of Nebraska, is amended to read:

71-1803. The State Veterinarian is hereby authorized to issue permits for the use of the aforesaid materials in the prevention or control of diseases of animals, if in his or her opinion there is sufficient warrant for their utilization for the aforesaid purpose. In carrying out the duties of this section with reference to animals, the State Veterinarian shall take into consideration the certification made by the Director of Health Director of Regulation and Licensure as provided for in section 71-1802. The State Veterinarian is further authorized to promulgate rules and regulations to carry out the provisions of this section.

Sec. 581. Section 71-1804, Reissue Revised Statutes of Nebraska, is amended to read:

71-1804. The permits, issued under the provisions of sections 71-1802 and 71-1803, shall be valid for the period of one year, or part thereof, expiring on December 31 of each year. However, all such permits must remain subject to abrogation and renewal, if in the opinion of the Director of Health Director of Regulation and Licensure or State Veterinarian there is sufficient warrant for such abrogation or renewal.

Sec. 582. Section 71-1805, Reissue Revised Statutes of Nebraska, is amended to read:

71-1805. Any person violating any of the provisions of sections 71-1801 to 71-1804, or any regulation promulgated by the Director of Health or by the State Veterinarian, shall be guilty of a Class II misdemeanor.

Sec. 583. Section 71-1901, Revised Statutes Supplement, 1995, is amended to read:

71-1901. For purposes of sections 71-1901 to 71-1906.02:

(1) Person shall include a partnership, limited liability company, firm, agency, association, or corporation;

(2) Child shall mean an unemancipated minor;

(3) Department shall mean the Department of Social Services Department of Health and Human Services Regulation and Licensure;

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

(5) Native American shall mean a person who is a member of an Indian tribe or eligible for membership in an Indian tribe.

Sec. 584. Section 71-1903, Revised Statutes Supplement, 1995, is amended to read:

71-1903. Before issuance of a license under sections 71-1901 to 71-1906.02, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the service and the place where the foster care is to be furnished are such as to ensure the

proper care and treatment of children. The department may investigate the character of prospective or existing licensees, any member of such licensee's household, and the staff and employees of foster care facilities by making a national criminal history record information check. The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01, payable by the licensee or applicant for a license, except that the department may pay the fee for inspection for fire safety of foster family homes as defined in section 71-1902. The Department of Social Services Department of Health and Human Services Regulation and Licensure may request the Department of Health and Human Services Regulation and Licensure to determine if they meet sanitation and health standards set by the Department of Social Services Department of Health and Human Services Regulation and Licensure for the care and protection of such children. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the Department of Health and Human Services Regulation and Licensure. The Department of Social Services Department of Health and Human Services Regulation and Licensure may also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing foster care to see that such service is being properly conducted.

Sec. 585. Section 71-1906.02, Revised Statutes Supplement, 1995, is amended to read:

71-1906.02. An advisory committee is established which shall be made up of Native Americans knowledgeable in Indian child welfare matters jointly appointed by the executive director of the Commission on Indian Affairs and the Director of Social Services Director of Regulation and Licensure. The advisory committee shall advise the department and the commission on the development of the appropriate standards for the licensing of Native American foster homes located outside the boundaries of any Indian reservation.

Sec. 586. Section 71-1907, Revised Statutes Supplement, 1995, is amended to read:

71-1907. Any person furnishing foster care who is subject to licensure under section 71-1902, when transporting in a motor vehicle any children for whom care is being furnished, shall use an approved child passenger restraint system for each child, except that an occupant protection system as defined in section 60-6,265 may be used for any child weighing forty or more pounds or four years of age or more.

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

For purposes of this section, approved child passenger restraint system shall mean a restraint system which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration as of July 17, 1982.

Sec. 587. Section 71-1909, Revised Statutes Supplement, 1995, is amended to read:

71-1909. (1) The purposes of sections 71-1908 to 71-1917 are to provide:

(a) Statewide licensing of providers of child care programs; and  
 (b) The Department of Social Services Department of Health and Human Services Regulation and Licensure with authority to coordinate the imposition of standards on providers of programs.

(2) It is the intent of the Legislature that the licensing and regulation of programs under such sections exist for the protection of children and to assist parents in making informed decisions concerning enrollment and care of their children in such programs.

Sec. 588. Section 71-1910, Revised Statutes Supplement, 1995, is amended to read:

71-1910. For purposes of sections 71-1908 to 71-1917, unless the context otherwise requires:

(1) Department shall mean the Department of Social Services Department of Health and Human Services Regulation and Licensure;

(2) Director shall mean the Director of Social Services Director of Regulation and Licensure; and

(3) Program shall mean the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, family child care home, child care center, school-age child care

program, school-age services pursuant to section 79-444, or preschool or nursery school. Program shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-328, or foster care as defined in section 71-1901. The State Board of Education may adopt and promulgate rules and regulations which shall apply to any program and any school-age-care program operated or contracted by a public school district.

Sec. 589. Section 71-1913, Revised Statutes Supplement, 1995, is amended to read:

71-1913. The department may request the State Fire Marshal to inspect any program for fire safety pursuant to section 81-502 and may request ~~the Department of Health to inspect any program to determine if it meets sanitation and physical well-being standards of the Department of Social Services department~~ for the care and protection of the children pursuant to section 71-901. The authority to ~~make such inspections~~ may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the ~~Department of Health Department of Health and Human Services Regulation and Licensure~~. The State Fire Marshal and the ~~Director of Health~~ shall immediately notify the ~~Department of Social Services Department of Health and Human Services Regulation and Licensure~~ whenever they ~~delegate he or she delegates~~ authority for such inspections.

Sec. 590. Section 71-1913.01, Revised Statutes Supplement, 1995, is amended to read:

71-1913.01. (1) Each program shall require the parent or guardian of each child enrolled in such program to present within thirty days after enrollment and periodically thereafter (a) proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and haemophilus influenzae type B and such other diseases as the ~~Department of Health Department of Health and Human Services Regulation and Licensure~~ may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, certified nurse practitioner, or physician assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that the parent or guardian does not wish to have such child so immunized and the reasons therefor. The program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement pursuant to subdivision (b) or (c) of this subsection.

(2) Each program shall keep a written record of immunization, the certification, or the written statement of the parent or guardian. Such record, certification, or statement shall be kept by the program as part of the child's file, shall be available to the ~~Department of Social Services Department of Health and Human Services~~, and shall be filed with the ~~Department of Health Department of Health and Human Services Regulation and Licensure~~ for review and inspection. Each program shall report to the ~~Department of Health Department of Health and Human Services Regulation and Licensure~~ by November 1 of each year the status of immunization for children enrolled as of September 30 of that year.

Sec. 591. Section 71-1913.02, Revised Statutes Supplement, 1995, is amended to read:

71-1913.02. (1) The ~~Department of Health Department of Health and Human Services Regulation and Licensure~~ shall perform annually a random audit of the reports submitted under section 71-1913.01 to check for compliance with such section on an annual basis and such other audits and inspections as are necessary to prevent the introduction or spread of disease. Audit results shall be reported to the ~~Department of Social Services Department of Health and Human Services~~.

(2) If the ~~Department of Health Department of Health and Human Services Regulation and Licensure~~ discovers noncompliance with section 71-1913.01, the ~~Department of Health Department of Health and Human Services Regulation and Licensure~~ shall allow a noncomplying program thirty days to correct deficiencies. If deficiencies are not corrected, the Department of Health shall notify the ~~Department of Social Services Department of Health and Human Services Regulation and Licensure~~ shall notify the ~~Department of Health Department of Health and Human Services~~ of any action taken as a result of such report or any failure to correct deficiencies.

(3) The ~~Department of Health Department of Health and Human Services~~

Regulation and Licensure shall develop and provide educational and other materials to programs and the public as may be necessary to implement section 71-1913.01.

Sec. 592. Section 71-1913.03, Revised Statutes Supplement, 1995, is amended to read:

71-1913.03. The Department of Health Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations relating to the required levels of protection, using as a guide the recommendations of the American Academy of Pediatrics and the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, Public Health Service, and the methods, manner, and frequency of reporting of each child's immunization status. The Department of Health Department of Health and Human Services Regulation and Licensure shall furnish each program with copies of such rules and regulations and any other material which will assist in carrying out section 71-1913.01.

Sec. 593. Section 71-2002, Reissue Revised Statutes of Nebraska, is amended to read:

71-2002. As used in sections 71-2001 to 71-2016, unless the context otherwise requires:

(1) Director shall mean the Director of Health of the State of Nebraska Director of Regulation and Licensure;

(2) The federal act shall mean, but is not restricted to, Public Law 88-156, Public Law 88-164, Public Law 88-581, Public Law 88-443, and other measures of similar intent which have been, or may in the future be, passed by the Congress of the United States;

(3) The Surgeon General shall mean the Surgeon General of the Public Health Service of the United States or such other federal office or agency responsible for the administration of the federal Hospital Survey and Construction Act, 42 U.S.C. 291 and amendments thereto;

(4) Hospital includes, but is not restricted to, facilities or parts of facilities, which provide space for public health centers, mental health clinics, and general, tuberculosis, mental, long-term care, and other types of hospitals, and related facilities, such as homes for the aged or infirm, laboratories, out-patient departments, nurses' home and educational facilities, and central service facilities operated in connection with hospitals;

(5) Public health center shall mean a publicly owned facility for providing public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers; and

(6) Nonprofit hospital shall mean any hospital owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Sec. 594. Section 71-2003, Reissue Revised Statutes of Nebraska, is amended to read:

71-2003. There is hereby established in the Department of Health Department of Health and Human Services Regulation and Licensure a section of Hospital and Medical Facilities which shall be administered by a full-time salaried assistant director under the supervision and direction of the director. The Department of Health Department of Health and Human Services Regulation and Licensure, through such section, shall constitute the sole agency of the state for the purpose of (1) making an inventory of existing hospitals, surveying the need for construction of hospitals, and developing a program of hospital construction as provided in section 71-2007, and (2) developing and administering a state plan for the construction of public and other nonprofit hospitals as provided in sections 71-2008 to 71-2016.

Sec. 595. Section 71-2017, Revised Statutes Supplement, 1994, is amended to read:

71-2017. The purposes of sections 71-2017 to 71-2029 and 81-604.01 and the Nebraska Nursing Home Act are: (1) To provide for the development, establishment, and enforcement of basic standards (a) for the care of persons in hospitals, health clinics, skilled nursing facilities, intermediate care facilities, intermediate care facilities for the mentally retarded, nursing facilities, domiciliary facilities, mental health centers, centers for the developmentally disabled, alcoholic treatment centers, residential care facilities, and drug treatment centers or persons using the services of a home health agency and (b) for the construction, maintenance, and operation of such health care facilities which, in light of existing knowledge, will insure safe and adequate care of such persons in such health care facilities; (2) to recognize the coordinated development of health care facilities and services; (3) to promote the development of multi-institutional systems that will

coordinate and consolidate the delivery of health care services and multi-institutional arrangements for the sharing of support services; and (4) to promote the development of capacity to provide various levels of care on a geographically integrated basis to meet the special needs of residents of the State of Nebraska for health services.

Any hospital or other health care facility owned or operated by a fraternal organization mentioned in section 21-608 exclusively for its own members shall be exempt unless any such fraternal organization owning or operating such a hospital or other health care facility is issued a license for such hospital or other health care facility upon its written application and upon its agreeing to comply with sections 71-2017 to 71-2029 and the Nebraska Nursing Home Act.

~~The Department of Health~~ Department of Health and Human Services Regulation and Licensure may waive any rule, regulation, or standard adopted and promulgated by the department relating to construction or physical plant requirements of licensed health facilities upon proof by the licensee satisfactory to the department that the waiver of such rule, regulation, or standard will not unduly jeopardize the health or welfare of the patients or residents, that such rule, regulation, or standard would create an unreasonable hardship upon the facility, and that a waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of medicare or medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled. The licensee shall submit and the department shall consider the following in evaluating the issue of unreasonable hardship: (i) The estimated cost of the modification or installation; (ii) the extent and duration of the disruption of the normal use of patient or resident areas resulting from construction work; (iii) the estimated period over which cost would be recovered through reduced insurance premiums and increased reimbursement related to cost; (iv) the availability of financing; and (v) the remaining useful life of the building. Any such waiver may be under such terms and conditions and for such period of time, not to exceed one year at a time, as the department may prescribe. The department may each year waive such rule, regulation, or standard for an additional year if the department determines that the continued waiver of such rule, regulation, or standard for an additional year will not constitute a hazard to the health or welfare of the patients or residents and will not cause the State of Nebraska to fail to comply with any of the applicable requirements of medicare or medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

Nothing in sections 71-2017 to 71-2029, 71-6043 to 71-6052, and 81-604.01, the Nebraska Nursing Home Act, or any rule or regulation adopted and promulgated pursuant thereto shall be construed to authorize or require any facility which is operated by and for members of a church which includes healing by prayer and spiritual means as a part of its religious practices to be licensed or inspected by the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure except as such licensure and inspection pertain solely to sanitation, fire prevention, and safety standards and building and construction codes applicable to the facilities mentioned in subdivision (1) of this section, nor shall any patients, residents, or personnel thereof be subjected to any medical supervision, regulation, or control in connection with the operation of any such facility.

Sec. 596. Section 71-2017.01, Revised Statutes Supplement, 1994, is amended to read:

71-2017.01. For purposes of sections 71-2017 to 71-2029, unless the context otherwise requires:

(1) Care shall mean the exercise of concern or responsibility for the comfort and welfare of the residents of a facility by the owner, occupant, administrator, or operator of the facility in addition to the provision of food and shelter to the residents and shall include, but not be limited to, the maintenance of a minimum amount of supervision of the activities of the residents of the facility as well as the provision of a minimum amount of assistance to the residents and shall also include personal care, hereby defined as the provision of health-related services for individuals who are in need of a protective environment but who are otherwise able to manage the normal activities of daily living;

(2) Hospital shall mean (a) any institution, facility, place, or building which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or medical care over a period exceeding twenty-four consecutive hours of two or more nonrelated individuals suffering from illness, condition, injury, or deformity, (b) any institution, facility, place, or building which is devoted primarily to the rendering over a period exceeding twenty-four consecutive hours of obstetrical or other



medical care for two or more nonrelated individuals, or (c) any institution, facility, place, or building in which any accommodation is primarily maintained, furnished, or offered for the medical and nursing care over a period exceeding twenty-four consecutive hours of two or more nonrelated aged or infirm persons requiring or receiving convalescent care. Hospital shall include, but not be limited to, facilities or parts of facilities which provide space for general acute hospitals, short-term hospitals, rehabilitation hospitals, long-term care hospitals, psychiatric or mental hospitals, and emergency hospitals or treatment centers. Hospital shall not be construed to include the residence, office, or clinic of a private physician or of an association of physicians, any other health practitioner, or any practitioner or association of practitioners licensed pursuant to Chapter 71, in which residence, office, or clinic patients are not treated or given care for a period in excess of twenty-four consecutive hours;

(3) General acute hospital shall mean a hospital having a duly constituted governing body which exercises administrative and professional responsibility and an organized medical staff which provides inpatient care, including medical, nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, and dietary services. Such services may be provided through a contract or agreement;

(4) Short-term hospital shall mean a hospital that (a) is primarily devoted to the diagnosis and treatment of individuals requiring short-term treatment or treatment of diagnosis consistent with the medical support available and (b) has written coordination agreements with a general acute hospital for transfers and quality assurance programs. Short-term hospital shall not mean a facility for the treatment of mental diseases, a rehabilitation hospital, an alcoholic treatment center, or a drug treatment center;

(5) Rehabilitation hospital shall mean a hospital which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services provided under professional supervision;

(6) Long-term care hospital shall mean any hospital, any distinct part of any hospital, or any portion of a hospital which is primarily devoted to providing the care and services as set forth in subdivisions (10), (11), and (22) of this section;

(7) Psychiatric or mental hospital shall mean a hospital which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(8) Emergency hospital or treatment center shall mean a hospital primarily devoted to the diagnosis and treatment of individuals requiring emergency outpatient services and emergency care and with written coordination agreements with a general acute hospital for transfers and quality assurance programs;

(9) Health clinic shall mean any institution, facility, place, building, or agency, not licensed as a hospital, which is operated under the name or title of health clinic, health center, ambulatory surgical center, or any other word or phrase of like or similar import, either independently or in connection with any other purpose, for the purpose of providing or making available at such institution, facility, place, building, or agency on an outpatient basis and for a period not exceeding twenty-four consecutive hours advice, counseling, diagnosis, treatment, care, or services relating to the preservation or maintenance of health primarily or exclusively to persons not residing or confined in such institution, facility, place, building, or agency. Satellite clinics operated on an intermittent basis at a specific location or site and providing services within a portion of the total geographic area served by a licensed health clinic need not be licensed but may operate as a part of the parent clinic and share administration and services. Specific types or categories of health clinics may be further defined by appropriate rule and regulation of the department not inconsistent with this definition and in no case shall be construed to include the residence, office, or clinic of a private physician or an association of physicians, any other health practitioner or association of practitioners, or any practitioner licensed pursuant to Chapter 71 unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week in such residence, office, or clinic;

(10) Skilled nursing facility shall mean any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients skilled nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is

granted pursuant to section 71-2017.06, a skilled nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.06, a skilled nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the skilled nursing facility has an average daily occupancy of sixty or fewer residents;

(11) Intermediate care facility shall mean any institution, facility, place, or building in which accommodation and board for a period exceeding twenty-four consecutive hours and also nursing care and related medical services are provided for two or more nonrelated individuals who are ill, injured, or disabled but not in need of hospital or skilled nursing facility care, but who by reason of illness, disease, injury, deformity, disability, convalescence, or physical or mental infirmity require such nursing care and related medical services. An intermediate care facility shall provide at least one licensed registered nurse or licensed practical nurse on duty on the day shift seven days per week and at least one licensed registered nurse, licensed practical nurse, or care staff member on duty on the other two shifts seven days per week. An intermediate care facility shall provide a Director of Nursing Services, who shall be a licensed registered nurse, to administer, supervise, delegate, and evaluate nursing and nursing support services of the facility. The Director of Nursing Services shall serve on the day shift five days per week, eight hours per day, except when it is necessary to vary working hours to provide supervision on other shifts, and may satisfy the day-shift nurse requirement for five of seven days per week if he or she can meet both the nursing care needs of the patients or residents for that shift and his or her administrative and supervisory responsibilities as Director of Nursing Services;

(12) Intermediate care facility for the mentally retarded shall mean any institution, facility, place, or building, not licensed as a hospital, that provides accommodation, board, training or habilitation services, advice, counseling, diagnosis, treatment, and care, including nursing care and related medical services, for a period exceeding twenty-four consecutive hours for fifteen or more nonrelated individuals who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities. The requirement of fifteen or more nonrelated individuals shall not apply to any intermediate care facility for the mentally retarded which has a valid license as of January 1, 1988;

(13) Residential care facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more nonrelated individuals who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs but do not require the daily services of a licensed registered nurse or licensed practical nurse;

(14) Domiciliary facility shall mean any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation and supervision to four or more individuals, not related to the owner, occupant, manager, or administrator thereof, who are essentially capable of managing their own affairs but who are in need of supervision, including supervision of nutrition, by the institution, facility, place, or building on a regular, continuing basis but not necessarily on a consecutive twenty-four-hour basis. This definition shall not include those homes or facilities providing casual care at irregular intervals;

(15) Mental health center shall mean any institution, facility, place, or building, not licensed as a hospital, which is used to provide for a period exceeding twenty-four consecutive hours accommodation, board, and advice, counseling, diagnosis, treatment, care, or services primarily or exclusively to persons residing or confined in the institution, facility, place, or building who are afflicted with a mental disease, disorder, or disability;

(16) Center for the developmentally disabled shall mean any residential institution, facility, place, or building, not licensed as a hospital, which is used to provide accommodation, board, and training, advice, counseling, diagnosis, treatment, care, including medical care when appropriate, or services primarily or exclusively to four or more persons



residing in the institution, facility, place, or building who have developmental disabilities;

(17) Alcoholic treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals having any type of habituation, dependency, or addiction to the use of alcohol, in which are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the alcohol dependent or alcoholic to move into independent living in normal surroundings but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one. Alcoholic treatment center shall include institutions, facilities, places, or buildings in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the institution, facility, place, or building having any type of habituation, dependency, or addiction to the use of alcohol. Specific types or categories of alcoholic treatment centers may be further defined by appropriate rule and regulation of the department not inconsistent with this definition;

(18) Drug treatment center shall mean any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals who have any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug, in which are provided guidance, supervision, and personal services relating to those areas of adjustment which enable the drug user, dependent, or addict to move into independent living in normal surroundings but not services that can be rendered only by a physician or within the confines of a hospital, and which is not a permanent residence but only a temporary one. Drug treatment center shall include institutions, facilities, places, or buildings in which there are provided nonresidential programs and services primarily or exclusively to nonresidents of the institution, facility, place, or building having any type of habituation, dependency, or addiction to the use of any kind of controlled substance, narcotic drug, or other type of drug. Specific types or categories of drug treatment centers may be further defined by appropriate rule and regulation of the department not inconsistent with this definition;

(19) Home health agency shall mean a public agency, private organization, or subdivision of such an agency or organization which is primarily engaged in providing skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to patients in a place of temporary or permanent residence used as the patient's home under a plan of care as prescribed by the attending physician and which meets the rules, regulations, and standards as established by the department. Nothing in this subdivision shall be construed to require (a) a physician's plan of care, (b) a summary report to the physician, (c) a progress report, or (d) a discharge summary when only personal care or assistance with the activities of daily living, as such terms are defined in section 71-6602, are provided. Parent home health agency shall mean the primary home health agency which establishes, maintains, and assures administrative and supervisory control of branch offices and subunits. Branch office shall mean a home health agency which is at a location or site providing services within a portion of the total geographic area served by the parent agency and is in sufficient proximity to share administration, supervision, and services with its parent agency in a manner that renders it unnecessary for the branch independently to meet licensure requirements. A branch office shall be part of its parent home health agency and share administration and services. Subunit shall mean a home health agency which serves patients in a geographic area different from that of the parent agency and which, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services on a daily basis and shall independently meet the licensing requirements for home health agencies. Home health agency shall not include private duty nursing registries as long as the private duty nursing registrant is the direct payee from the patient. Home health agency shall not apply to the practice of home health care by other licensed medical persons as authorized by the practice of their particular specialty nor to the individuals providing homemaker or chore services within the home;

(20) Developmental disability shall mean a severe, chronic disability of a person which (a) is attributable to a mental or physical impairment or combination of mental and physical impairment, (b) is manifested

before the person attains the age of twenty-two, (c) is likely to continue indefinitely, (d) results in substantial functional limitations in three or more of the following areas of major life activity: Self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living; and economic self-sufficiency, and (e) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;

(21) Qualified mental retardation professional shall mean any person who meets the requirements of 42 C.F.R. 483.430(a);

(22) Nursing facility shall mean any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 71-2017.07, a nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.07, a nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the nursing facility has an average daily occupancy of sixty or fewer residents;

(23) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure; and

(24) Ambulatory surgical center shall mean any facility, not licensed as a hospital, (a) the primary purpose of which is to provide surgical services to patients not requiring hospitalization, in which the patient is admitted to and discharged from such facility within the same working day and is not permitted to stay overnight, (b) which meets all state licensure requirements of a health clinic pursuant to subsection (9) of this section, and (c) which has qualified for a written agreement with the Health Care Finance Administration of the United States Department of Health and Human Services or its successor to participate in medicare as an ambulatory surgical center as defined in 42 C.F.R. 416 et seq. or which receives other third-party reimbursement for facility services. Ambulatory surgical center shall not include an office or clinic used solely by a practitioner or group of practitioners in the practice of medicine, dentistry, or podiatry.

Sec. 597. Section 71-2017.06, Revised Statutes Supplement, 1994, is amended to read:

71-2017.06. (1) The Department of Health Department of Health and Human Services Regulation and Licensure may waive the evening and night staffing requirements of subdivision (10) of section 71-2017.01 for skilled nursing facilities or for long-term care hospitals certified under Title XVIII of the federal Social Security Act, as amended, except the requirement that the Director of Nursing Services be a licensed registered nurse, if:

(a) The facility or hospital demonstrates to the satisfaction of the department that it has been unable, despite diligent efforts, to hire enough licensed registered nurses and licensed practical nurses to fulfill such requirements. For purposes of this subdivision, diligent efforts shall include, but not be limited to, offering wages equal to or greater than the community prevailing wage rate being paid such nurses at nursing facilities;

(b) The department determines that a waiver of the requirement will not endanger the health or safety of residents of the facility or hospital; and

(c) The department finds that, for any period in which staffing requirements cannot be met, a licensed registered nurse or a physician is obligated to respond immediately to telephone calls from the facility or hospital.

A waiver granted under this subsection shall be subject to annual review by the department. As a condition of granting or renewing a waiver, a facility or hospital may be required to employ other qualified licensed personnel.

(2) The department may waive the requirement of subdivision (10) of section 71-2017.01 that a skilled nursing facility or long-term care hospital certified under Title XVIII of the federal Social Security Act, as amended, provide a licensed registered nurse on duty at the facility for more than forty hours per week if:

(a) The facility or hospital is located in a nonurban area where the supply of skilled nursing facility services is not sufficient to meet the

needs of individuals residing in the area;

(b) The facility or hospital has one full-time licensed registered nurse who is regularly on duty at the facility or hospital forty hours per week; and

(c) The facility or hospital (i) has only patients whose physicians have indicated through orders or admission or progress notes that the patients do not require the services of a licensed registered nurse or a physician for more than forty hours per week or (ii) has made arrangements for a licensed registered nurse or a physician to spend time at the facility or hospital, as determined necessary by the physician, to provide the necessary services on days when the regular, full-time licensed registered nurse is not on duty.

A waiver may be granted under this subsection for a period of up to one year by the department.

Sec. 598. Section 71-2017.07, Revised Statutes Supplement, 1994, is amended to read:

71-2017.07. The Department of Health Department of Health and Human Services Regulation and Licensure may waive either the requirement of subdivision (22) of section 71-2017.01 that a nursing facility or long-term care hospital certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed registered nurse for at least eight consecutive hours per day, seven days per week, or the requirement of such subdivision that a nursing facility or long-term care hospital certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week, including the requirement for a charge nurse on each tour of duty, if:

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

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

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

(2) The Department of Social Services Department of Health and Human Services Finance and Support has been granted any waiver by the federal government of staffing standards for certification under Title XIX of the federal Social Security Act, as amended, and the requirements of subdivisions (1)(b) and (c) of this section have been met.

The Department of Social Services Department of Health and Human Services Finance and Support shall apply for such a waiver from the federal government to carry out the provisions of subdivision (2) of this section.

A waiver granted under this section shall be subject to annual review by the department. The department shall provide notice of the granting of a waiver to the office of the state long-term care ombudsman and to the Nebraska Advocacy Services or any successor designated for the protection of and advocacy for persons with mental illness or mental retardation. A nursing facility granted a waiver shall provide written notification to each resident of the facility or, if appropriate, to the guardian, legal representative, or immediate family of the resident. As a condition of granting or renewing a waiver, a facility or hospital may be required to employ other qualified licensed personnel.

The department may grant a waiver under this section if it determines that the waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

Sec. 599. Section 71-2018, Reissue Revised Statutes of Nebraska, is amended to read:

71-2018. No institution or facility which is mentioned in subdivision (1) of section 71-2017 shall be established, conducted, or maintained in the State of Nebraska without first obtaining a license therefor from the Department of Health Department of Health and Human Services Regulation and Licensure in the manner provided in sections 71-2017 to 71-2029. Facilities licensed under Chapter 71, article 19, need not be licensed under Chapter 71, article 20.

Sec. 600. Section 71-2020, Revised Statutes Supplement, 1994, is amended to read:

71-2020. Applicants for a license shall file applications under

oath with the Department of Health Department of Health and Human Services Regulation and Licensure upon forms prescribed and shall pay a license fee of fifty dollars as a base fee, except that hospitals, skilled nursing facilities, intermediate care facilities, nursing facilities, and intermediate care facilities for the mentally retarded shall pay a license fee of one hundred twenty-five dollars as a base fee. In addition to such base fee, hospitals, skilled nursing facilities, intermediate care facilities, nursing facilities, and intermediate care facilities for the mentally retarded shall pay a fee of five dollars for each bed available for patients of the facility, and all other types of facilities shall pay a fee of one dollar for each bed available for patients thereof. Such fees shall be paid into the state treasury and by the State Treasurer credited to the General Fund, or if the license is denied, that part of the fees paid for beds available shall be returned to the applicant.

Applications shall be signed (1) by the owner, if an individual or partnership, (2) by two of its members, if a limited liability company, (3) by two of its officers, if a corporation, or (4) by the head of the governmental department having jurisdiction over it, if a governmental unit. Applications shall set forth the full name and address of the institution for which license is sought, and of the owner in case of different address, the names of the persons in control thereof, and such additional information as the Department of Health Department of Health and Human Services Regulation and Licensure may require, including affirmative evidence of ability to comply with such reasonable standards, rules, and regulations as may be lawfully prescribed hereunder.

Sec. 601. Section 71-2021, Reissue Revised Statutes of Nebraska, is amended to read:

71-2021. Licenses issued pursuant to sections 71-2017 to 71-2029 shall expire one year after date of issuance or upon such uniform dates annually as the Department of Health Department of Health and Human Services Regulation and Licensure may prescribe by regulation. Licenses shall be issued only for the premises and persons named in the application, shall not be transferable or assignable, and shall be posted in a conspicuous place on the licensed premises. Separate buildings or structures on the same premises under one management shall require only one license, but, upon request by the applicant or licensee, separate licenses shall be issued.

Sec. 602. Section 71-2021.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-2021.02. Any hospital may be licensed in more than one category under sections 71-2017.01 and 71-5901 to 71-5905 if it meets all of the applicable requirements for the applicable category. Multiple categories shall be evidenced by separate licenses or by notation of the various categories on one single licensure document or certificate as requested by the applicant or licensee. License fees shall be charged on a per bed basis for the highest licensure category applicable to the hospital. Nursery bassinets and surgical recovery beds shall be excluded and intensive care beds shall be included in determining the license fees.

In the case of a hospital operating under multiple categories, only that portion of the hospital actually operating as the highest licensure category shall be required to comply with departmental standards for the highest licensure category, and all other portions of such hospital need comply only with the departmental standards for the care provided in that portion of the hospital. The director of nursing of a facility licensed as a hospital may serve as director of nursing for other categories if the patient care requirements for the categories for which the facility is licensed under sections 71-2017.01 and 71-5901 to 71-5905 are satisfied.

The Department of Health Department of Health and Human Services Regulation and Licensure may adopt and promulgate rules and regulations necessary to implement this section.

Sec. 603. Section 71-2022, Reissue Revised Statutes of Nebraska, is amended to read:

71-2022. The Department of Health Department of Health and Human Services Regulation and Licensure shall make or cause to be made such inspections as it may prescribe by regulation. The Department of Health department may prescribe that any licensee or prospective applicant desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the Department of Health department for inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized. The Department of Health department may request the State Fire Marshal to inspect for fire safety any licensed facility or institution or

facility or institution for which a license is sought, pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Sec. 604. Section 71-2023, Revised Statutes Supplement, 1994, is amended to read:

71-2023. The ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure shall issue licenses for the operation of health care facilities subject to sections 71-2017 to 71-2029 and the Nebraska Nursing Home Act which are found to comply with such sections or act and such rules and regulations as are lawfully adopted and promulgated by the department. As a condition for licensure or renewal of a license, such institutions shall submit to the department a list of the names of all individual owners, partners, limited liability company members, and members of boards of directors owning or managing such institutions and any other persons with financial interests or investments in such institutions. Every such licensed institution shall have a sign prominently posted in the lobby or entry area of such institution. Such sign shall be in the form of a printed card with a minimum height of twenty inches and a width of fourteen inches with each letter to be a minimum of one-fourth inch in height. The sign shall contain the name, street address, city, state, and zip code of all individual owners, partners, limited liability company members, and members of the board of directors owning or managing such institution, except that the name of any owner who owns less than five percent of the institution shall not be included on the sign.

The department may (1) deny, suspend, or revoke licenses of such health care facilities or (2) take other disciplinary measures against the license of any such health care facility, other than a hospital, on any of the following grounds:

(a) Violation of any of the provisions of sections 71-2017 to 71-2029 or the Nebraska Nursing Home Act or the rules and regulations lawfully adopted and promulgated pursuant thereto;

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

(c) Conduct or practices detrimental to the health or safety of patients, residents, and employees of the facility, except that this subdivision shall not be construed to have any reference to healing practices authorized by law;

(d) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to such facility for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations promulgated by the ~~Department on Aging~~ Department of Health and Human Services;

(e) Discrimination or retaliation against an employee or resident of any such facility who has presented a grievance or information to the office of the state long-term care ombudsman;

(f) Violation of the Emergency Box Drug Act; or

(g) Failure to file a report required by section 71-168.02.

If the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure determines to deny, suspend, or revoke a license, it shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such thirty-day period, requests a hearing in writing. Thereupon the applicant or licensee shall be given a fair hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and 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 applicant or licensee. The decision shall become final thirty days after the copy is mailed unless the applicant or licensee, within such thirty-day period, appeals the decision under section 71-2027. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations.

Other disciplinary actions taken shall be in accordance with the applicable provisions of sections 71-2023.01 to 71-2023.07 or 71-6025 to 71-6031.

Sec. 605. Section 71-2026, Reissue Revised Statutes of Nebraska, is amended to read:

71-2026. The Department of Health Department of Health and Human Services Regulation and Licensure shall prepare and publish a biennial report of its activities and operations under sections 71-2017 to 71-2029 and shall file such report with the Clerk of the Legislature upon request. Each member of the Legislature shall receive a copy of such report by making a request for it to the director.

Sec. 606. Section 71-2027, Reissue Revised Statutes of Nebraska, is amended to read:

71-2027. Any applicant or licensee who is dissatisfied with the decision of the Department of Health Department of Health and Human Services Regulation and Licensure 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.

Sec. 607. Section 71-2029, Revised Statutes Supplement, 1994, is amended to read:

71-2029. The Department of Health Department of Health and Human Services Regulation and Licensure may, in accordance with the laws of the state governing injunctions and other process, maintain an action in the name of the state against any person, partnership, limited liability company, association, or corporation or against any state, county, or local governmental unit, or any division, department, board or agency thereof, for establishing, conducting, managing, or operating any hospital or related institution within the meaning of sections 71-2017 to 71-2029 without first having a license therefor as herein provided. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, conduct, manage, or operate a hospital or related institution without having a license to do so without averring any further or more particular facts concerning the same.

Sec. 608. Section 71-2049, Revised Statutes Supplement, 1994, is amended to read:

71-2049. Except for state hospitals administered by the Department of Public Institutions Department of Health and Human Services, each hospital and each ambulatory surgical center, as such terms are defined in section 71-2017.01, shall, upon written request of a patient or third-party payor on behalf of a patient, include in such patient's or payor's bill an itemized list of all expenses such patient incurred during his or her stay at such hospital or ambulatory surgical center. Such expenses shall include, but not be limited to, the cost of (1) X-rays, (2) laboratory fees, (3) respiratory therapy services, (4) oxygen, (5) pharmaceuticals, (6) take-home drugs, (7) chargeable medical supplies, (8) central service supplies, (9) medical equipment, (10) room and board, and (11) all additional charges incurred by the patient. The right to request such information shall be clearly and conspicuously stated in each patient's or payor's bill. The patient or payor shall receive a copy of the itemized bill within fourteen days after the hospital or ambulatory surgical center receives the request. Such request shall be made by the patient or payor within twenty-eight days after the date of discharge.

Upon receipt of an itemized list, a patient or payor may request and the hospital or ambulatory surgical center shall provide an explanation of any or all expenses or services included on the itemized list. The patient or payor shall make a request for such explanation within twenty-eight days of receipt of an itemized list. The patient or payor shall receive the explanation within fourteen days after the hospital or ambulatory surgical center receives the request.

Any person who violates this section shall be guilty of a Class IV misdemeanor.

Sec. 609. Section 71-2051, Reissue Revised Statutes of Nebraska, is amended to read:

71-2051. For purposes of sections 71-2050 to 71-2055, unless the context otherwise requires:

(1) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure; and

(2) Care staff member shall mean an individual who has been approved by a hospital which operates a rehabilitation or long-term care facility and the department to administer oral and external medication and oxygen as provided in section 71-6501 and who has completed the prescribed course of training for care staff members.

Sec. 610. Section 71-2081, Revised Statutes Supplement, 1994, is amended to read:

71-2081. For each hospital uniform billing form on which a

diagnosis code for the external cause of an injury, poisoning, or adverse effect is entered pursuant to section 71-2080, each hospital in this state may submit data to the Department of Health Department of Health and Human Services Regulation and Licensure beginning January 1, 1994, and shall submit data to the department beginning January 1, 1995. Such data shall be submitted quarterly and shall include, but not be limited to, the diagnosis code for the external cause of an injury, poisoning, or adverse effect, other diagnosis codes, the procedure codes, admission date, discharge date, disposition code, and demographic data to include, but not be limited to, the birthdate, sex, city and county of residence, and zip code of residence for every patient discharged from a hospital, receiving outpatient services, or released from observation for whom a diagnosis code for the external cause of an injury, poisoning, or adverse effect is recorded pursuant to section 71-2080. This data shall be submitted to the department in written or computer form. The data provided to the department under this section shall be classified for release as determined by the department only in aggregate data reports created by the department on a periodic basis or at the request of an individual. Such aggregate data reports shall be considered public documents.

Sec. 611. \* Section 71-2082, Revised Statutes Supplement, 1994, is amended to read:

71-2082. The Department of Health Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations governing the recordation, acquisition, compilation, and dissemination of all data collected pursuant to sections 71-2078 to 71-2082.

Sec. 612. Section 71-2084, Revised Statutes Supplement, 1995, is amended to read:

71-2084. For purposes of sections 71-2084 to 71-2096:

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

(2) Director means the Director of Health Director of Regulation and Licensure; and

(3) Health care facility means an institution subject to licensing under sections 71-2017 to 71-2029.

Sec. 613. Section 71-2201, Revised Statutes Supplement, 1995, is amended to read:

71-2201. There is created a Maternal and Child Health and Public Health Work Fund in the treasury of the State of Nebraska, to be administered by the Director of Health Director of Health and Human Services for maternal and child health and for public health work, as provided by law. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 614. Section 71-2202, Reissue Revised Statutes of Nebraska, is amended to read:

71-2202. The Director of Health of the State of Nebraska Director of Health and Human Services shall be the sole agency of the State of Nebraska for the administration of administer the fund for maternal and child health and public health services throughout the State of Nebraska. Seventy-five percent of the fund shall be used for maternal and child health activities in this state, and twenty-five percent shall be used for public health work, if such amounts are needed therefor.

Sec. 615. Section 71-2203, Reissue Revised Statutes of Nebraska, is amended to read:

71-2203. Disbursements from the fund referred to in section 71-2201 shall be made upon vouchers signed by the Director of Health Director of Health and Human Services and warrants approved by the Director of Administrative Services.

Sec. 616. Section 71-2206, Reissue Revised Statutes of Nebraska, is amended to read:

71-2206. The Director of Health Director of Health and Human Services shall obtain and preserve records of birth throughout this state from the Bureau of Vital Statistics, and shall furnish such records to the Chief of the Children's Bureau, Department of Labor of the United States, in monthly, quarterly, or annual reports, and shall furnish data and information in such reports as follows: (1) Such information as the Secretary of Labor shall from time to time require; and (2) such data as may be requested to assure the correctness and verification of such reports.

Sec. 617. Section 71-2207, Reissue Revised Statutes of Nebraska, is amended to read:

71-2207. The funds allocated for maternal and child health in this state shall be used and distributed subject to the supervision of the Director

of Health Director of Health and Human Services: (1) For promoting the health of mothers and children, especially in rural areas, suffering from some economic distress; (2) for the establishment, extension, and improvement of local maternal and child health services to be administered by local child health units; and (3) for demonstration services in needy areas and among groups in special need. The director shall also cooperate with licensed physicians and surgeons and with nursing and welfare groups and organizations for the purposes herein expressed.

Sec. 618. Section 71-2208, Reissue Revised Statutes of Nebraska, is amended to read:

71-2208. The Director of Health and Human Services shall make quarterly or more frequent reports of the administration of sections 71-2205 to 71-2208, and all expenditures thereunder, to the Director of Social Services and to the Chief of the Children's Bureau of the United States Department of Labor, and shall comply with requests for information from the Secretary of Labor of the United States or his or her agencies, if federal funds are granted to this state for the purposes mentioned in said such sections.

Sec. 619. Section 71-2226, Reissue Revised Statutes of Nebraska, is amended to read:

71-2226. The Department of Health and Human Services is authorized to have a state CSF program to protect the health and welfare of the citizens of Nebraska by providing nutritious foods donated for such program by the United States Department of Agriculture, nutrition education, and such other benefits as are available to women, infants, children, and elderly persons in Nebraska who are low income and vulnerable to malnutrition as long as federal funds are available from the CSF program and are granted to the department.

To the extent consistent with state law, the Department of Health and Human Services is authorized to have a state CSF program to protect the health and welfare of the citizens of Nebraska by providing nutritious foods donated for such program by the United States Department of Agriculture, nutrition education, and such other benefits as are available to women, infants, children, and elderly persons in Nebraska who are low income and vulnerable to malnutrition as long as federal funds are available from the CSF program and are granted to the department.

To the extent consistent with state law, the Department of Health and Human Services may establish, operate, and maintain the program in a way that will qualify it to receive federal funds and that is uniform with United States Department of Agriculture's standards, enter into agreements with the federal government to establish a CSF program, adopt and promulgate rules and regulations to implement a CSF program which are consistent with federal regulations and such other rules and regulations as may be necessary to implement the CSF program, and enter into such other agreements as may be necessary to implement the program within this state.

Sec. 620. Section 71-2227, Reissue Revised Statutes of Nebraska, is amended to read:

71-2227. The Department of Health and Human Services is authorized to have a state WIC program to protect the health and welfare of citizens of Nebraska by providing nutritional supplemental foods and nutrition education to women, infants, and children who are low income and determined to be at nutritional risk as long as federal funds are available from the WIC program and are granted to the department.

To the extent consistent with state law, the department may establish, operate, and maintain the program in a way that will qualify it to receive federal funds and that is uniform with United States Department of Agriculture's standards, enter into agreements with the federal government to establish a WIC program, adopt and promulgate rules and regulations to implement a WIC program which are consistent with federal regulations and such other rules and regulations as may be necessary to implement the WIC program, and enter into such other agreements as may be necessary to implement the program within this state.

Sec. 621. Section 71-2228, Reissue Revised Statutes of Nebraska, is amended to read:

71-2228. Any person who by means of a willfully false statement or representation, by impersonation, or by other device obtains or attempts to obtain or aids or abets any person to obtain or to attempt to obtain (1) a food instrument to which he, she, or it is not entitled, (2) any supplemental foods to which such person is not entitled, or (3) any other benefit administered by the Department of Health and Human Services under sections 71-2226 and 71-2227 commits an offense and shall, upon conviction, be punished as follows: (a) If the aggregate value of all funds or other benefits obtained or attempted to be obtained is less than five hundred dollars, the person so convicted shall be guilty of a Class III misdemeanor; or (b) if the aggregate value of all funds and other benefits obtained or attempted to be obtained is five hundred dollars or more, the person so convicted shall be guilty of a Class IV felony.

Sec. 622. Section 71-2407, Revised Statutes Supplement, 1994, is amended to read:

71-2407. (1) No person operating outside of the State of Nebraska



shall ship, mail, or in any manner deliver dispensed prescription drugs into the State of Nebraska unless such person:

(a) Is licensed as a pharmacist in the United States;  
 (b) Has filed with the Department of Health Department of Health and Human Services Regulation and Licensure evidence of a pharmacy license or permit issued by and valid in the state in which the person is located and from which such prescription drugs will be shipped, mailed, or otherwise delivered;

(c) Is located and operating in a state in which the requirements and qualifications for obtaining and maintaining a pharmacy license or permit are considered by the Department of Health Department of Health and Human Services Regulation and Licensure, with the approval of the Board of Examiners in Pharmacy, to be substantially equivalent to the requirements contained in sections 71-1,142 to 71-1,147.38;

(d) Has designated the Secretary of State as his, her, or its agent for service of process in this state; and

(e) Has paid a fee equivalent to the annual fee for an initial or renewal permit to operate a pharmacy in the State of Nebraska as established in and at the times provided for in section 71-1,147.07. Such fees shall be remitted to the State Treasurer for credit to the Nebraska Pharmaceutical Fund.

(2) This section shall not apply to prescription drugs mailed, shipped, or otherwise delivered by a pharmaceutical company to a laboratory for the purpose of conducting clinical research.

(3) For purposes of this section and section 71-2408, prescription drug shall have the definition found in section 71-1,142.

Sec. 623. Section 71-2408, Reissue Revised Statutes of Nebraska, is amended to read:

71-2408. The Department of Health Department of Health and Human Services Regulation and Licensure, upon the recommendation of the Board of Examiners in Pharmacy, shall notify the Attorney General of any possible violations of the Mail Service Prescription Drug Act. If the Attorney General has reason to believe that an out-of-state person is operating in violation of the act, he or she shall commence an action in the district court of Lancaster County to enjoin any such person from further mailing, shipping, or otherwise delivering prescription drugs into the State of Nebraska.

Sec. 624. Section 71-2409, Reissue Revised Statutes of Nebraska, is amended to read:

71-2409. The Department of Health Department of Health and Human Services Regulation and Licensure shall, upon the recommendation of the Board of Examiners in Pharmacy, adopt and promulgate rules and regulations, including rules and regulations for enforcement, necessary to carry out the Mail Service Prescription Drug Act.

Sec. 625. Section 71-2411, Revised Statutes Supplement, 1994, is amended to read:

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

(1) Authorized personnel shall mean any medical doctor, doctor of osteopathy, registered nurse, licensed practical nurse, pharmacist, or physician's assistant;

(2) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(3) Drug shall mean any prescription drug or legend drug defined under section 71-1,142, any nonprescription drug as defined under section 71-1,142, any controlled substance as defined under section 28-405, or any device as defined under section 71-1,142;

(4) Emergency box drugs shall mean drugs required to meet the immediate therapeutic needs of patients when the drugs are not available from any other authorized source in time to sufficiently prevent risk of harm to such patients by the delay resulting from obtaining such drugs from such other authorized source;

(5) Institution shall mean a skilled nursing facility, an intermediate care facility, an intermediate care facility for the mentally retarded, and a nursing facility, as such terms are defined under section 71-2017.01;

(6) Institutional pharmacy shall mean the physical portion of an institution engaged in the compounding, dispensing, and labeling of drugs which is operating pursuant to a permit issued by the Department of Health Department of Health and Human Services Regulation and Licensure under section 71-1,147.03;

(7) Multiple dose vial shall mean any bottle in which more than one dose of a liquid drug is stored or contained; and

(8) Supplying pharmacist shall mean the pharmacist in charge of an

institutional pharmacy or a pharmacist who provides emergency box drugs to an institution pursuant to the Emergency Box Drug Act. Supplying pharmacist shall not include any agent or employee of the supplying pharmacist who is not a pharmacist.

Sec. 626. Section 71-2503, Reissue Revised Statutes of Nebraska, is amended to read:

71-2503. Every person who disposes of or sells at retail or furnishes any of the poisons in section 71-2501 or any other poisons which the Department of Health, State of Nebraska, Department of Health and Human Services Regulation and Licensure may from time to time designate, as provided in section 71-2506, shall, before delivery, enter in a book kept for that purpose, to be known as the Poison Register, the date of sale, the name and address of the purchaser, the name and quantity of the poison, the purpose for which it is purchased, and the name of the dispenser, and such record shall be signed by the person to whom the poison is delivered. Such record shall be kept in the form prescribed by the department, and the book containing the same must be always open for inspection by the proper authorities, and must be preserved for at least two years after the last entry.

Sec. 627. Section 71-2506, Reissue Revised Statutes of Nebraska, is amended to read:

71-2506. Whenever, in the judgment of the Director of Health Director of Regulation and Licensure, 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 Department of Health and Human Services Regulation and Licensure shall have printed a revised schedule of all poisons coming under section 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 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 such section, 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 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 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 this section may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 628. Section 71-2509, Reissue Revised Statutes of Nebraska, is amended to read:

71-2509. The Director of Health Director of Regulation and Licensure may, by regulation, whenever in his or her opinion such action becomes necessary for the protection of the public, prohibit the sale of any poison, subject to the provisions of this section, except upon the original written order or prescription of those practitioners of the healing arts, named in section 71-102, who are duly authorized by law to administer or professionally use those poisons specifically named in section 71-2501. Whenever in the opinion of the director it is in the interest of the public health, he or she is empowered to adopt rules and regulations, not inconsistent with the provisions of sections 71-2501 to 71-2511, further restricting or prohibiting the retail sale of any poison. The rules and regulations must be applicable to all persons alike, and it shall be the duty of the director, upon request, to furnish any person, authorized by sections 71-2501 to 71-2511 to sell or dispense any poisons, with a list of all articles, preparations, and compounds the sale of which is prohibited or regulated by said sections.

Sec. 629. Section 71-2511, Revised Statutes Supplement, 1994, is amended to read:

71-2511. Any person, partnership, limited liability company, association, or corporation violating any of the provisions of sections 71-2502 to 71-2511 or any of the rules or regulations passed by the Director of Health Director of Regulation and Licensure pursuant to the sections shall be deemed guilty of a Class V misdemeanor.

Sec. 630. Section 71-2516, Revised Statutes Supplement, 1994, is amended to read:

71-2516. The Department of Health Department of Health and Human Services may participate in national efforts and may develop a statewide environmental lead hazard awareness action plan which is comprehensive in scope and reflects contributions from a broad base of providers and consumers.

In order to implement the statewide environmental lead hazard awareness action plan, the department may:

(1) Actively seek the participation and commitment of the public, health care professionals and facilities, the educational community, and community organizations in a comprehensive program to ensure that the state's children are appropriately protected from environmental lead hazards;

(2) Apply for and receive public and private awards to develop and administer a statewide comprehensive environmental lead hazard awareness action plan program;

(3) Provide environmental lead hazard information and education to the public, parents, health care providers, and educators to establish and maintain a high level of awareness;

(4) Assist parents, health care providers, and communities in developing systems, including demonstration and pilot projects, which emphasize the protection of children from environmental lead poisoning and the use of private practitioners; and

(5) Evaluate the effectiveness of these statewide efforts, identify children at special risk for environmental lead hazard exposure, and report on the activities of the statewide program annually to the Legislature and the citizens of Nebraska.

Sec. 631. Section 71-2517, Revised Statutes Supplement, 1994, is amended to read:

71-2517. The Childhood Lead Poisoning Prevention Act is not intended to create an entitlement to any activities described in the act, and the Department of Health Department of Health and Human Services may perform the activities described in the act to the extent funds are available.

Sec. 632. Section 71-2610, Reissue Revised Statutes of Nebraska, is amended to read:

71-2610. The State Board of Health shall advise the department regarding:

(1) Rules and regulations for the government of the Department of Health Department of Health and Human Services Regulation and Licensure including those required pursuant to section 71-115.01;

(2) The policies of the Department of Health Department of Health and Human Services Regulation and Licensure;

(3) Health needs for the state;

(4) An educational health program throughout the state; and

(5) Plans of organization or reorganization of the Department of Health Department of Health and Human Services Regulation and Licensure.

All funds rendered available by law, including funds already collected for such purposes, may be used by the department in administering and effecting such purposes.

Sec. 633. Section 71-2610.01, Revised Statutes Supplement, 1994, is amended to read:

71-2610.01. (1) The State Board of Health shall have the power and duty to:

(a) Adopt and promulgate rules and regulations for the government of the Bureau of Examining Boards of the Department of Health Department of Health and Human Services Regulation and Licensure, including rules and regulations necessary to implement laws enforced by the department through the bureau; and

(b) Determine the policies of the bureau.

(2) All funds rendered available by law may be used by the board in administering and effecting such purposes.

Sec. 634. Section 71-2617, Reissue Revised Statutes of Nebraska, is amended to read:

71-2617. There is hereby created in the Department of Health Department of Health and Human Services Regulation and Licensure a cash fund to be known as the Department of Health Department of Health and Human Services Regulation and Licensure Reimbursement Fund. The fund shall be used for payment of services performed for the Department of Social Services Department of Health and Human Services Finance and Support for inspection and licensing of hospitals and nursing homes under Title XIX of the federal Social Security Act. Any money in the Department of Health Reimbursement Fund on January 1, 1997, shall be transferred to the Department of Health and Human Services Regulation and Licensure Reimbursement Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 635. Any money in the Department of Health Cash Fund shall be transferred according to program to the Department of Health and Human Services Cash Fund, the Department of Health and Human Services Regulation and

Licensure Cash Fund, and the Department of Health and Human Services Finance and Support Cash Fund on January 1, 1997, as determined by the budget administrator and the Accounting Administrator.

Sec. 636. Section 71-2619, Reissue Revised Statutes of Nebraska, is amended to read:

71-2619. (1) The Department of Health Department of Health and Human Services Regulation and Licensure may by regulation establish fees to defray the costs of providing specimen containers, shipping outfits, and related supplies and fees to defray the costs of certain laboratory examinations as requested by individuals, firms, corporations, or governmental agencies in the state. Fees for the provision of certain classes of shipping outfits or specimen containers shall be no more than the actual cost of materials, labor, and delivery. Fees for the provision of shipping outfits may be made when no charge is made for service.

(2) Fees may be established by regulation for chemical or microbiological examinations of various categories of water samples. Fees established for examination of water to ascertain qualities for domestic, culinary, and associated uses shall be set to defray no more than the actual cost of the tests in the following categories: (a) Inorganic chemical assays; (b) organic pollutants; and (c) bacteriological examination to indicate sanitary quality as coliform density by membrane filter test or equivalent test.

(3) Fees for examinations of water from lakes, streams, impoundments, or similar sources, from wastewaters, or from ground water for industrial or agricultural purposes may be charged in amounts established by regulation but shall not exceed one and one-half times the limits set by department regulation for examination of domestic waters.

(4) Fees may be established by regulation for chemical or microbiological examinations of various categories of samples to defray no more than the actual cost of testing. Such fees may be charged for:

(a) Any specimen submitted for radiochemical analysis or characterization;

(b) Any material submitted for chemical characterization or quantitation; and

(c) Any material submitted for microbiological characterization.

(5) Fees may be established by regulation for the examinations of certain categories of biological and clinical specimens to defray no more than the actual costs of testing. Such fees may be charged for examinations pursuant to law or departmental regulation of:

(a) Any specimen submitted for chemical examination for assessment of health status or functional impairment;

(b) Any specimen submitted for microbiological examination which is not related to direct human contact with the microbiological agent; and

(c) A specimen submitted for microbiological examination or procedure by an individual, firm, corporation, or governmental unit other than the Department of Health Department of Health and Human Services Regulation and Licensure.

(6) The department shall not charge fees for tests that include microbiological isolation, identification examination, or other laboratory examination for the following:

(a) A contagious disease when the Department of Health Department of Health and Human Services Regulation and Licensure is authorized by law or regulations to directly supervise the prevention, control, or surveillance of such contagious disease;

(b) Any emergency when the health of the people of any part of the state is menaced or exposed pursuant to section 71-502; and

(c) When adopting or enforcing special quarantine and sanitary regulations authorized by the department.

(7) Combinations of different tests or groups of tests submitted together may be offered at rates less than those set for individual tests as allowed in this section and shall defray the actual costs.

(8) Fees may be established by regulation to defray no more than the actual costs of conducting qualifying inspections in order to make laboratory agreements between the department and laboratories other than the Department of Health Department of Health and Human Services Regulation and Licensure Laboratory for the purpose of conducting analyses of drinking water as prescribed in section 71-5306. The inspection fees shall be collected on an annual schedule from those laboratories which enter into an agreement with the department for the purpose of conducting laboratory analyses of water. Such fees shall not exceed the amount in the following categories: (a) Bacteriological examination agreement, one hundred and fifty dollars; (b) inorganic chemical analyses agreement, one hundred dollars; (c) heavy metal

analyses agreement, two hundred dollars; (d) organic chemical analyses agreement, two hundred dollars; and (e) radiochemical analyses agreement, two hundred dollars.

(9) All fees collected pursuant to this section shall be deposited in the state treasury and credited to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 637. Section 71-2620, Reissue Revised Statutes of Nebraska, is amended to read:

71-2620. The Department of Health Department of Health and Human Services Regulation and Licensure may enter into agreements, not exceeding one year in duration, with any other governmental agency relative to the provision of certain laboratory tests and services to the agency. Such services shall be provided as stipulated in the agreement, and for such fee, either lump sum or by the item, as is mutually agreed upon and as complies with the provisions of section 71-2619.

Sec. 638. Section 71-2621, Reissue Revised Statutes of Nebraska, is amended to read:

71-2621. All fees collected for laboratory tests and services pursuant to sections 71-2619 and 71-2620 shall be paid into the state treasury and by the State Treasurer credited to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund, which shall be used to partially defray the costs of labor, operations, supplies, and materials in the operations of the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 639. Section 71-2622, Revised Statutes Supplement, 1994, is amended to read:

71-2622. The Department of Health Department of Health and Human Services Regulation and Licensure shall collect a fee of not less than sixty nor more than one hundred dollars, as determined by departmental regulation, for each inspection of private water supply or private sewage disposal facilities requested of and made by the department in order for the person requesting the inspection to qualify for any type of commercial loan, guarantee, or other type of payment or benefit from any commercial agency or enterprise to the person applying for or receiving the same or to meet the requirements of any federal governmental agency, including, but not limited to, the Farmers Home Administration, the Federal Housing Administration, and the United States Department of Veterans Affairs, that such an inspection be conducted as a condition of applying for or receiving any type of grant, loan, guarantee, or other type of payment or benefit from such agency to the person applying for or receiving the same. All fees so collected shall be paid into the state treasury and by the State Treasurer credited to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 640. Section 71-2809, Reissue Revised Statutes of Nebraska, is amended to read:

71-2809. As used in sections 71-2808 to 71-2822, unless the context otherwise requires:

(1) Approved program shall mean a program for the education of physical therapist assistants approved by the Department of Health Department of Health and Human Services Regulation and Licensure upon the recommendation of the Board of Examiners in Physical Therapy;

(2) Board shall mean the Board of Examiners in Physical Therapy;

(3) Department shall mean Department of Health of the State of Nebraska the Department of Health and Human Services Regulation and Licensure;

(4) Physical therapist assistant shall mean any person who has graduated from a school for physical therapist assistants approved by the department or who has been certified by the board according to subsection (2) of section 71-2815;

(5) Physical therapy aide shall mean a nonlicensed or noncertified worker whose primary function is to perform routine tasks related to the operation of a physical therapy service, but who may assist with physical therapy related activities;

(6) Supervision shall mean responsible supervision and control when a licensed physical therapist assumes legal liability for the services of a physical therapist assistant. Except in cases of emergency or when appropriate duties and protocols have been outlined in the initial application and approved by the board, supervision shall require that the physical therapist shall be present on the premises of the practice site for consultation and direction of the actions of the physical therapist assistant. Such exceptions shall also include but not be limited to (1) ambulating patients, (2) applying hot packs, and (3) performing range of motion exercises. Such supervision may be further defined by rules and regulations

promulgated by the department upon the recommendation of the board; and

(7) Trainee shall mean any person who is currently enrolled in an approved program.

Sec. 641. Section 71-3101, Revised Statutes Supplement, 1994, is amended to read:

71-3101. As used in sections 71-3101 to 71-3107, unless the context otherwise requires:

(1) Recreation camp shall mean one or more temporary or permanent tents, buildings, or structures, together with the tract of land appertaining thereto, established or maintained for more than a forty-eight-hour period as living quarters used for ~~purpose~~ purposes of sleeping or the preparation and the serving of food extending beyond the limits of a family group for children or adults, or both, for recreation, education, or vacation purposes, and including facilities located on either privately or publicly owned lands not already licensed under Chapter 41;

(2) Person shall mean any individual or group of individuals, association, partnership, limited liability company, or corporation; and

(3) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 642. Section 71-3102, Reissue Revised Statutes of Nebraska, is amended to read:

71-3102. Before any person shall directly or indirectly operate a recreation camp he or she shall make an application to the department and receive a valid permit for the operation of such camp. Application for such a permit shall be made at least thirty days prior to the proposed operation of the camp and shall be on forms supplied by the department upon request. The application shall be in such form and contain such information as the department may deem necessary to its determination that the recreation camp will be operated and maintained in such a manner as to protect and preserve the health and safety of the persons using the camp and shall be accompanied by an annual fee of not less than twenty-five nor more than forty-five dollars. Where a person operates or is seeking to operate more than one recreation camp, a separate application shall be made for each camp. Such a permit shall not be transferable or assignable. It shall expire one year from the date of its issuance, or upon a change of operator of the camp, or upon revocation. If the department finds, after investigation, that the camp or the proposed operation thereof conforms, or will conform, to the minimum standards for recreation camps, a permit on a form prescribed by the department shall be issued for operation of the camp. All fees shall be paid into the state treasury and by the State Treasurer credited to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 643. Section 71-3104, Reissue Revised Statutes of Nebraska, is amended to read:

71-3104. (1) A permit may be temporarily suspended by the Director of Health Director of Regulation and Licensure for failure to protect the health and safety of the occupants of the camp, or a failure to comply with the camp regulations prescribed by the department.

(2) A permit may be revoked at any time, after notice and opportunity for a fair hearing held by the Director of Health Director of Regulation and Licensure, if the director finds that the camp for which the permit is issued is maintained or operated in violation of law or of any regulations applicable to a camp or in violation of the conditions stated in the permit. A new permit shall not be issued until the department is satisfied that the camp will be operated in compliance with the law and regulations.

Sec. 644. Section 71-3305, Reissue Revised Statutes of Nebraska, is amended to read:

71-3305. (1) Except as provided in subsection (2) of this section, any political subdivision as defined in section 13-702, that provides the water supply of any city or village for human consumption shall add fluoride to such water supply in the amount and manner prescribed by the rules and regulations of the Department of Health Department of Health and Human Services Regulation and Licensure.

(2) Fluoride shall not be added to the water supply of any city or village in which the voters have, after September 2, 1973, adopted an ordinance by initiative prohibiting the adding of fluoride to its water supply. The procedure for the adoption of any such ordinance shall be that provided in sections 18-2501 to 18-2536. No such ordinance may be adopted in a city or village receiving, or which has contracted to receive, its water supply, or any part thereof, from another political subdivision, or public or private entity, which adds fluoride to its water supply in compliance with

subsection (1) of this section, or section 71-3306, or which has available only purchased fluoridated water with which to supply such city or village.

Sec. 645. Section 71-3306, Reissue Revised Statutes of Nebraska, is amended to read:

71-3306. Any public or private entity not included in section 71-3305 which provides a water supply for human consumption and which is not required to add fluoride to such water supply may add fluoride to such water supply in the amount and manner prescribed by the rules and regulations of the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 646. Section 71-3401, Revised Statutes Supplement, 1994, is amended to read:

71-3401. Any person, hospital, sanitarium, nursing home, rest home, or other organization may provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person to the Department of Health Department of Health and Human Services Regulation and Licensure, the Nebraska Medical Association or any of its allied medical societies, the Nebraska Association of Hospitals and Health Systems, any inhospital staff committee, or any joint venture of such entities to be used in the course of any study for the purpose of reducing morbidity or mortality, and no liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided such information or material, by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

Sec. 647. Section 71-3402, Revised Statutes Supplement, 1994, is amended to read:

71-3402. The Department of Health Department of Health and Human Services Regulation and Licensure, the Nebraska Medical Association or any of its allied medical societies, the Nebraska Association of Hospitals and Health Systems, any inhospital staff committee, or any joint venture of such entities shall use or publish the material specified in section 71-3401 only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances.

Sec. 648. Section 71-3406, Revised Statutes Supplement, 1994, is amended to read:

71-3406. The Director of Health Director of Regulation and Licensure shall appoint a minimum of eight and a maximum of twelve members to the State Child Death Review Team. The core members shall be (1) the director of maternal and child health of the Department of Health Department of Health and Human Services, (2) a senior staff member of the child protective services division of the Department of Social Services Department of Health and Human Services, (3) a forensic pathologist, (4) a law enforcement representative, and (5) an attorney. The core members shall meet on a monthly basis. The remaining members appointed may be, but shall not be limited to, the following: A county attorney; a Federal Bureau of Investigation agent responsible for investigations on Native American reservations; a social worker; and members of organizations which represent hospitals or physicians. Members shall serve four-year terms with the exception of the director of maternal and child health who shall be a permanent member. The director of maternal and child health shall serve as the chairperson of the team, and in his or her absence, the Director of Health Director of Regulation and Licensure may appoint another member of the core team to serve as chairperson. The team shall not be considered a public body for purposes of sections 84-1408 to 84-1414. The team shall meet a minimum of four times a year. Members of the team shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 649. Section 71-3409, Revised Statutes Supplement, 1994, is amended to read:

71-3409. (1) The team shall review all child deaths occurring on or after January 1, 1993. The review process shall be conducted in three phases.

(2) Phase one shall be conducted by the core members. The core members shall review the death certificate, birth certificate, coroner's report or autopsy report if done, and indicators of child or family involvement with the Department of Social Services Department of Health and Human Services. The core members shall classify the nature of the death, whether accidental, homicide, suicide, undetermined, or natural causes, determine the completeness of the death certificate, and identify

discrepancies and inconsistencies. The core members may select cases from phase one for review in phase two.

(3) Phase two shall be completed by the core members and shall not be conducted on any child death under active investigation by a law enforcement agency or under criminal prosecution. The core members may seek additional records described in section 71-3410. The core members shall identify the preventability of death, the possibility of child abuse or neglect, the medical care issues of access and adequacy, and the nature and extent of interagency communication. The core members may select cases from phase two for review by the team in phase three.

(4) Phase three shall be a review by the team of those cases selected by the core members for further discussion, review, and analysis.

Sec. 650. Section 71-3410, Revised Statutes Supplement, 1994, is amended to read:

71-3410. Upon request the team shall be immediately provided:

(1) Information and records maintained by a provider of medical, dental, prenatal, and mental health care, including medical reports, autopsy reports, and emergency and paramedic records; and

(2) All information and records maintained by any state, county, or local government agency, including, but not limited to, birth and death certificates, law enforcement investigative data and reports, coroner investigative data and reports, parole and probation information and records, and information and records of any social services agency that provided services to the child or the child's family.

The ~~Director of Health~~ Director of Regulation and Licensure shall have the authority to issue subpoenas to compel production of any of the records and information specified in subdivisions (1) and (2) of this section, except records and information on any child death under active investigation by a law enforcement agency or which is at the time the subject of a criminal prosecution, and shall provide such records and information to the team.

Sec. 651. Section 71-3503, Revised Statutes Supplement, 1995, is amended to read:

71-3503. For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

(8) Department means the Department of Health ~~Department of Health~~



and Human Services Regulation and Licensure;

(9) Coordinator means the Director of Health Director of Regulation and Licensure;

(10) Council means the radiation advisory council provided for in section 71-3506;

(11) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(12) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials;

(c) A license issued to a radon measurement specialist, radon measurement technician, radon mitigation specialist, radon mitigation technician, radon measurement business, or radon mitigation business; or

(d) A license issued to a medical radiographer or limited radiographer;

(13) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(14) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(15) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the Federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (15)(a) of this section but does not include source material;

(16) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(17) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(18) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(19) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational

care;

(20) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(21) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(22) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(23) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (13)(b) of this section;

(24) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner, except the commercial disposal of low-level radioactive waste in a disposal facility, designated by the Central Interstate Low-Level Radioactive Waste Compact Commission;

(25) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(26) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(27) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(28) Transuranic waste means radioactive waste containing alpha-emitting transuranic elements, with radioactive half-lives greater than five years, in excess of one hundred nanocuries per gram;

(29) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(30) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

(31) Limited radiographer means a person licensed to practice medical radiography pursuant to subsection (2) of section 71-3515.01. Limited radiographer does not include a person certified under section 71-176.01;

(32) Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 71-3515.01; and

(33) Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects the radiation dose to patients.

Sec. 652. Section 71-3504, Reissue Revised Statutes of Nebraska, is amended to read:

71-3504. (1) The Director of Health Director of Regulation and Licensure shall be the coordinator of radiation control activities, and ~~the Director of Health~~ may designate a Director of Radiation Control. The Director of Health Director of Regulation and Licensure shall:

(a) Advise the Governor and agencies of the state on matters relating to radiation; and

(b) Coordinate regulatory activities of the state relating to radiation, including cooperation with other states and the federal government.

(2) The Director of Health Director of Regulation and Licensure shall:

(a) Review before and after the holding of any public hearing required under the Administrative Procedure Act, prior to promulgation, the

proposed rules and regulations of all agencies of the state relating to use and control of radiation; to assure that such rules and regulations are consistent with rules and regulations of other agencies of the state;

(b) When he or she determines that proposed rules or regulations or parts thereof are inconsistent with rules and regulations of other agencies of the state, consult with the radiation advisory council in an effort to resolve such inconsistencies. Upon notification by the council that such inconsistencies have not been resolved, the Governor may, after consultation with the council and the ~~Bireeter of Health~~ Director of Regulation and Licensure, find that the proposed rules and regulations or parts thereof are inconsistent with rules and regulations of other agencies of the state or the federal government and may issue an order to that effect, in which event the proposed rules and regulations or parts thereof shall not become effective. The Governor may, in the alternative, upon a similar determination, direct the appropriate agency or agencies to amend or repeal existing rules and regulations to achieve consistency with the proposed rules and regulations;

(c) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, interstate agencies, political subdivisions, and other organizations concerned with control of sources of radiation; and

(d) Collect and disseminate information relating to the control of sources of radiation and maintain (i) a file of all registrants, license applications, issuances, denials, amendments, transfers, renewals, modifications, inspections, recommendations pertaining to radiation, suspensions, and revocations, (ii) a file of registrants possessing or using sources of radiation requiring registration under the Radiation Control Act and any administrative or judicial action pertaining to such registration, and (iii) a file of all rules and regulations relating to the regulation of sources of radiation, pending or promulgated, and proceedings on such rules and regulations thereon.

(3) The several agencies of the state and political subdivisions shall keep the coordinator fully and currently informed as to their activities relating to development of new uses and regulation of sources of radiation.

Sec. 653. Section 71-3505, Revised Statutes Supplement, 1995, is amended to read:

71-3505. Matters relating to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The ~~department~~ Department of Health and Human Services Regulation and Licensure 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 (i) any other source of radiation, (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, (iii) persons providing services to reduce the effects of sources of radiation, and (iv) persons practicing medical radiography, 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, osteopathic medicine, 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, medical radiographers, limited radiographers, 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

Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

(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; and

(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 credited to the Department of Health Department of Health and Human Services Regulation and Licensure 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.

Sec. 654. Section 71-3508.03, Revised Statutes Supplement, 1994, is amended to read:

71-3508.03. (1) The department shall establish by rule and regulation annual fees for the radioactive materials licenses, for inspections of radioactive materials, for the registration and inspection of radiation-generating equipment and other sources of radiation, and for radon measurement and mitigation licenses and inspections of radon mitigation systems installations under the Radiation Control Act, except that the annual fee for registration and inspection of X-ray radiation-generating equipment shall not exceed seventy dollars per X-ray machine. In determining such fees, the department shall, as an objective, obtain sufficient funds from the fees to pay for a portion of the direct and indirect costs of administering the act without loss or reduction of the General Fund allocation to the department. No fee shall exceed the actual cost to the department for licensure, inspection, or registration. The department may also contract with a registrant, a licensee, another state, or a federal agency to partially or fully recover the cost of administering the act. The fees collected shall be deposited in the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering the act. The department shall collect such fees. The cost of environmental surveillance activities performed by the department to assess the radiological impact of activities conducted by licensees and registrants shall be in addition to the annual fees.

(2) The department may, upon application by an interested person or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this subsection may include, but shall not be limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

(3) When a registrant or licensee fails to pay the applicable fee, the department may suspend or revoke the registration or license or may issue an appropriate order.

Sec. 655. Section 71-3508.04, Revised Statutes Supplement, 1994, is amended to read:

71-3508.04. (1) For licensed activities involving source material milling, source material mill tailings, and management of low-level radioactive waste, the department shall, and for other classes of licensed activities the department may, adopt and promulgate rules and regulations which establish standards and procedures to ensure that the licensee will

provide an adequate surety or other financial arrangement to permit the completion of all requirements established by the department for the licensure, regulation, decontamination, closure, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with such licensed activity in case the licensee should default for any reason in performing such requirements. All sureties required which are forfeited shall be paid to the department and remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. Money in such fund remitted pursuant to this subsection shall be expended by the department as necessary to complete the closure and reclamation requirements and shall not be used for normal operating expenses of the department.

(2) For licensed activities involving the disposal of source material mill tailings and management of low-level radioactive waste, the department shall, and for other classes of licensed activities when radioactive material which will require surveillance or care is likely to remain at the site after the licensed activities cease the department may, adopt and promulgate rules and regulations which establish standards and procedures to ensure that the licensee, before termination of the license, will make available such funding arrangements as may be necessary to provide for long-term site surveillance and care. All such funds collected from licensees shall be paid to the department and remitted to the State Treasurer for credit to the fund. All funds accrued as interest on money credited to the fund pursuant to this subsection may be expended by the department for the continuing long-term surveillance, maintenance, and other care of facilities from which such funds are collected as necessary for protection of the occupational and public health and safety and the environment. If title to and custody of any radioactive material and its disposal site are transferred to the United States upon termination of any license for which funds have been collected for such long-term care, the collected funds and interest accrued thereon shall be transferred to the United States.

(3) The sureties or other financial arrangements and funds required by this section shall be established in amounts sufficient to ensure compliance with standards, if any, established by the department pertaining to licensure, regulation, closure, decommissioning, reclamation, and long-term site surveillance and care of such facilities and sites.

(4) To provide for the proper care and surveillance of sites subject to subsection (2) of this section which are not subject to section 71-3508.01 or 71-3508.02, the state may acquire by gift or transfer from another governmental agency or private person any land and appurtenances necessary to fulfill the purposes of this section. Any such gift or transfer shall be subject to approval and acceptance by the Legislature.

(5) The department may by contract, agreement, lease, or license with any person, including another state agency, provide for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site subject to this section as needed to carry out the purposes of this section.

(6) If a person licensed by any governmental agency other than the department desires to transfer a site to the state for the purpose of administering or providing long-term care, a lump-sum deposit shall be made to the department and remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. The amount of such deposit shall be determined by the department taking into account the factors stated in subsections (1) and (2) of this section.

Sec. 656. Section 71-3515.02, Revised Statutes Supplement, 1995, is amended to read:

71-3515.02. (1) The educational program for medical radiographers shall consist of twenty-four months of instruction in radiography approved by the department which includes, but is not limited to, radiographic procedures, imaging equipment, image production and evaluation, film processing, radiation physics, radiation protection, radiation biology, radiographic pathology, and quality assurance activities. The department shall recognize equivalent courses of instruction successfully completed by individuals who are applying for licensure as medical radiographers by the department when determining if the requirements of section 71-3515.01 have been met.

(2) The examination for limited radiographers shall include, but not be limited to:

(a) Radiation protection, equipment maintenance and operation, image production and evaluation, and patient care and management; and

(b) The anatomy of, and positioning for, specific regions of the human anatomy. The anatomical regions shall include at least one of the

following:

- (i) Chest;
- (ii) Extremities;
- (iii) Skull and sinus;
- (iv) Spine; or
- (v) Ankle and foot.

(3) The department shall adopt and promulgate rules and regulations regarding the examinations required in subdivisions (1)(a)(ii) and (2)(a) of section 71-3515.01. Such rules and regulations shall provide for (a) the administration of examinations based upon national standards, such as the Examination in Radiography from the American Registry of Radiologic Technologists for medical radiographers, the Examination for the Limited Scope of Practice in Radiography from the American Registry of Radiologic Technologists for limited radiographers, or equivalent examinations that, as determined by the department, meet the standards for educational and psychological testing as recommended by the American Psychological Association, the American Educational Research Association, and the National Council on Measurement in Education, (b) procedures to be followed for examinations, (c) the method of grading and the passing grades for such examinations, (d) security protection for questions and answers, and (e) for medical radiographers, the contents of such examination based on the course requirements for medical radiographers prescribed in subsection (1) of this section. Any costs incurred in determining the extent to which examinations meet the examining standards of this subsection shall be paid by the individual or organization proposing the use of such examination.

(4) Any person employed in medical radiography before and on June 2, 1995, who is not otherwise licensed may apply for a license as a provisional limited radiographer before January 1, 1996. A person licensed as a provisional limited radiographer may perform the duties of a limited radiographer licensed in all anatomical regions listed in subdivision (2)(b) of this section and the anatomical region of Abdomen. A provisional limited radiographer shall not radiograph children under the age of six months, except (a) upon a finding by the department that continued provision of service for a community would be in jeopardy if this provision is enforced, (b) for an employee of a hospital licensed and in good standing under Chapter 71 and located in a rural area as defined in subdivision (8) of section 71-5653, or (c) in a bona fide emergency situation. No examination shall be required of individuals applying for a license as a provisional limited radiographer. All provisional limited radiographer licenses expire January 1, 2005. A license as a provisional limited radiographer is subject to discipline for violations of the Radiation Control Act and rules and regulations adopted pursuant to the act, including, but not limited to, revocation for nonpayment of fees or failure to meet continuing education requirements of subdivision (2)(b) of section 71-3515.01.

(5) No applicant for a license as a limited radiographer may take the examination for licensure, or for licensure for any specific anatomical region, more than three times without first waiting a period of one year after the last unsuccessful attempt of the examination and submitting proof to the department of completion of twelve units of continuing education meeting the requirements of subdivision (2)(b) of section 71-3515.01 for each subsequent attempt.

(6) The department shall adopt and promulgate rules and regulations establishing fees for the implementation of this section and section 71-3515.01, including an examination fee, initial and renewal licensure fees for persons performing medical radiography, and a fee for approval of courses of instruction. In determining such fees, the department shall obtain sufficient funds from the fees to pay the direct and indirect costs of administering such sections. No fee shall exceed the actual cost to the department for examination and licensure. The fees shall be collected and remitted by the department to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund and shall be used solely for the purpose of defraying the direct and indirect costs of administering such sections.

Sec. 657. Section 71-3601, Reissue Revised Statutes of Nebraska, is amended to read:

71-3601. As used in sections 71-3601 to 71-3612, unless the context otherwise requires:

- (1) State health officer shall mean the Director of Health Director of Health and Human Services;
- (2) Local health officer shall mean the administrative medical officer of any organized local health department that is fully approved by the Department of Health Department of Health and Human Services Regulation and



Licensure, or the medical advisor to a county, city, or village board of health;

(3) Communicable tuberculosis shall mean tuberculosis manifested by a laboratory report of sputum or other body fluid or excretion found to contain tubercle bacilli or by chest X-ray findings interpreted as active tuberculosis by competent medical authority;

(4) Recalcitrant tuberculous person shall mean a person affected with tuberculosis in an active stage who by his or her conduct or mode of living endangers the health and well-being of other persons, by exposing them to tuberculosis, and who refuses to accept adequate treatment; and

(5) Facility shall mean a structure in which suitable isolation for tuberculosis can be given, and which is approved by the Department of Health Department of Health and Human Services for the detention of recalcitrant tuberculous persons.

Sec. 658. Section 71-3602, Revised Statutes Supplement, 1994, is amended to read:

71-3602. When a person with communicable tuberculosis violates the rules, regulations, or orders promulgated by the Department of Health Department of Health and Human Services and is thereby conducting himself or herself in such a way as to expose others to danger of infection, after having been ordered by the state health officer Director of Health and Human Services or by a local health officer to comply with such rules, the state or local health officer shall institute proceedings for commitment, returnable to the county court of the county in which the person resides or, if the person is a nonresident or has no permanent residence, in the county in which the person is found. Strictness of pleading shall not be required, and a general allegation that the public health requires commitment of the person shall therein be sufficient.

Sec. 659. Section 71-3603, Reissue Revised Statutes of Nebraska, is amended to read:

71-3603. The county attorney of the county wherein the proceedings shall be held, as provided in section 71-3602, shall act for the Department of Health Department of Health and Human Services or local board of health. The health officer shall advise the county attorney in writing of the violation. Within three days of such notification the county attorney shall file a petition with the county court.

Upon filing of the petition, the court shall set the matter for a hearing, which time shall be not less than five days nor more than ten days subsequent to filing. A copy of the petition together with a summons stating the time and place of hearing shall be served upon the person three days or more prior to the time set for the hearing.

Summons shall be served by the sheriff of the county in which the hearing is to be held and return thereof shall be made as in other civil cases.

The court costs incurred in proceedings under sections 71-3601 to 71-3612, including medical examinations required by order of the court but excluding examinations procured by the person named in the petition, shall be borne by the county in which the proceedings are held.

Sec. 660. Section 71-3608, Reissue Revised Statutes of Nebraska, is amended to read:

71-3608. No person having communicable tuberculosis who in his or her home or elsewhere obeys the rules and regulations and orders of the Department of Health Department of Health and Human Services for the control of tuberculosis or who voluntarily accepts hospitalization or treatment in a health care facility mentioned in subdivision (1) of section 71-2017 which is licensed and approved for such use by the department Department of Health and Human Services Regulation and Licensure and obeys the rules and regulations and orders of the department Department of Health and Human Services for the control of communicable tuberculosis shall be committed under the provisions of sections 71-3601 to 71-3612.

Sec. 661. Section 71-3610, Reissue Revised Statutes of Nebraska, is amended to read:

71-3610. The expenses incurred in the care, maintenance, and treatment of patients committed under the provisions of sections 71-3601 to 71-3612 shall be paid from state funds appropriated to the Department of Health Department of Health and Human Services for the purpose of entering into agreements with qualified health care facilities so as to provide for the care, maintenance, and treatment of such patients and those other persons having communicable tuberculosis who voluntarily agree to and accept care and treatment.

Sec. 662. Section 71-3611, Reissue Revised Statutes of Nebraska, is amended to read:

71-3611. Any person committed under the provisions of sections 71-3601 to 71-3612 who leaves the health care facility without having been discharged by the attending physician or by court order shall be taken into custody and returned to the facility by the sheriff of any county where such person is found, upon an affidavit being filed with the sheriff by the administrator of the facility or duly authorized officer in charge thereof acting as the duly appointed agent and representative of the Director of Health Director of Health and Human Services in the matter. The costs of such transportation shall be paid from county general funds of the patient's county of residence. If the person is a nonresident of Nebraska or has no permanent residence, the costs shall be paid from county general funds of the county of commitment.

Sec. 663. Section 71-3612, Reissue Revised Statutes of Nebraska, is amended to read:

71-3612. Each health officer is hereby directed to use all available means to detect persons with communicable tuberculosis in his or her jurisdiction. If he or she has reasonable grounds based upon medical science for believing that a person has communicable tuberculosis, and if this person refuses to submit to the examination necessary for determining the existence of communicable tuberculosis, the health officer shall issue an order to the person to obtain the appropriate examination. Thereafter, if the person does not comply within seven days, the health officer may institute commitment procedures as described in sections 71-3601 to 71-3604, the purpose of commitment under this section being to determine whether or not the person has communicable tuberculosis.

The costs of voluntary examination made upon health officer request or of examination made upon health officer order shall be paid from county general funds of the person's county of residence. If the person is a nonresident or has no permanent residence, the costs shall be paid from the county general funds of the county of commitment. The costs of examination and maintenance while under commitment shall be paid from state funds appropriated to the Department of Health Department of Health and Human Services therefor. The costs of transportation under the commitment procedure for examination shall be paid from county general funds of the county of residence. If the person is not a resident of Nebraska or has no permanent residence, they shall be paid from the county general funds of the county of commitment.

Sec. 664. Section 71-3613, Reissue Revised Statutes of Nebraska, is amended to read:

71-3613. The Department of Health Department of Health and Human Services shall have and may exercise the following powers and duties in its administration of sections 71-3601 to 71-3612:

(1) To contract with qualified hospitals or other health care facilities mentioned in subdivision (1) of section 71-2017 which are licensed and approved for such use by the Department of Health Department of Health and Human Services Regulation and Licensure for the purpose of caring for, maintaining, and treating patients committed under the provisions of sections 71-3601 to 71-3612, and for those other persons having communicable tuberculosis who voluntarily agree to and accept care and treatment in such a health care facility on either an inpatient or an outpatient basis;

(2) To inspect and supervise to the extent necessary the facilities, operations, and administration of those health care facilities under contract to or otherwise receiving support from the Department of Health and Human Services for the purpose of providing care, treatment, or maintenance for persons infected with communicable tuberculosis;

(3) To provide visiting nursing services to those persons having communicable tuberculosis who are being treated on an outpatient basis;

(4) To adopt rules and regulations, and issue orders based thereon, relative to reports and statistics on tuberculosis from counties and the care, treatment, and maintenance of persons having tuberculosis, especially of those in the communicable or contagious stage thereof; and

(5) To set standards by rule and regulation for the types and level of medical care and treatment to be used by those health care facilities caring for tuberculous persons and to set standards by rule and regulation governing contracts mentioned in subdivision (1) of this section dealing with such matters as program standards, maximum and minimum costs and rates, administrative procedures to be followed and reports to be made, and arbitration by third parties, except that no such contract or contracts shall be longer than one year in duration or involve amounts in excess of the funds appropriated therefor.

Sec. 665. Section 71-3614, Reissue Revised Statutes of Nebraska, is amended to read:



71-3614. (1) When any person who has communicable or contagious tuberculosis and who has relatives, friends, or a private or public agency or organization willing to undertake the obligation to support him or her or to aid in supporting him or her in any other state or country, the Department of Health Department of Health and Human Services may furnish him or her with the cost of transportation to such other state or country if it finds that the interest of the State of Nebraska and the welfare of such person will be promoted thereby. The expense of such transportation shall be paid by the department out of funds appropriated to it for the purpose of carrying out the provisions of sections 71-3601 to 71-3612.

(2) No funds appropriated to the Department of Health Department of Health and Human Services for the purpose of carrying out the provisions of sections 71-3601 to 71-3612 shall be used for meeting the cost of the care, maintenance, or treatment of any person who has communicable or contagious tuberculosis in a health care facility on either an inpatient or an outpatient basis, or otherwise, or for transportation to another state or country, to the extent that such cost is covered by an insurer or other third-party payer or any other entity under obligation to such person by contract, policy, certificate, or by any other means whatsoever. The department in no case shall expend any such funds to the extent that any such person is able to bear the cost of such care, maintenance, treatment, or transportation. The department shall determine the ability of a person to pay by consideration of the following factors: (a) The person's age, (b) the number of his or her dependents and their ages and physical condition, (c) the person's length of care, maintenance, or treatment, (d) his or her liabilities, and (e) his or her assets. Pursuant to the provisions of the Administrative Procedure Act, the department shall adopt appropriate rules and regulations for making the determinations required by this subsection.

Sec. 666. Section 71-3702, Revised Statutes Supplement, 1994, is amended to read:

71-3702. For purposes of sections 71-3702 to 71-3715, unless the context otherwise requires:

(1) Board shall mean the Board of Registration for Environmental Health Specialists;

(2) Environmental health specialist shall mean a person who by education and experience in the physical, biological, and sanitary sciences is qualified to carry out educational, investigational, and technical duties in the field of environmental sanitation;

(3) Registered environmental health specialist shall mean a person who has the educational requirements and has had experience in the field of environmental sanitation required by subsection (1) of section 71-3703 and is registered in accordance with sections 71-3702 to 71-3715;

(4) Trainee shall mean a person who is qualified by education but does not have at least one full year of experience in the field of environmental sanitation and is registered in accordance with sections 71-3702 to 71-3715; and

(5) Certificate of registration shall mean a document issued as evidence of registration and qualification to practice as an environmental health specialist or trainee under sections 71-3702 to 71-3715, bearing the designation Registered Environmental Health Specialist or Trainee, and showing the name of the person, date of issue, serial number, seal, and signatures of the members of the board authorized to grant such certificates; and

(6) Department shall mean the Department of Health and Human Services Regulation and Licensure.

Sec. 667. Section 71-3706, Revised Statutes Supplement, 1994, is amended to read:

71-3706. The Board of Registration for Environmental Health Specialists shall consist of six members appointed by the State Board of Health. One member shall be a layperson who is at least the age of majority, who has been a resident of the state for at least five years immediately preceding appointment, and who is a representative of consumer viewpoints. Each of the other members shall have been engaged in environmental health for at least ten years, shall have had responsible charge of work for at least five years at the time of his or her appointment, and shall be a registered environmental health specialist. Each member of the Board of Registration for Environmental Health Specialists shall receive as compensation not more than twenty-five dollars per day for each day actually spent in traveling to and from and while attending sessions of the board and its committees, and each member shall also receive the necessary expenses incident to the performance of his or her duties as provided by sections 81-1174 to 81-1177 and subject to section 71-3708.01.

The Department of Health Department of Health and Human Services

Regulation and Licensure shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 668. Section 71-3708, Revised Statutes Supplement, 1994, is amended to read:

71-3708. (1) The members of the board shall organize as soon as appointed and, annually thereafter in the month of April, shall elect from their number a chairperson, a vice-chairperson, and a secretary. The secretary shall continue in office at the pleasure of the board.

(2) The board shall make such rules as are necessary to carry out sections 71-3702 to 71-3715.

(3) The board shall hold at least one meeting each year to review and evaluate applications for registration as environmental health specialists or trainees, conduct examinations, review and approve all bills, prepare and approve reports, and transact all other business as may be necessary to carry out sections 71-3702 to 71-3715. Only board members shall be entitled to vote at board meetings.

(4) The board shall issue certificates of registration to applicants who have been found qualified as environmental health specialists or trainees, to which certificate the official seal of the board has been affixed.

(5) Four members of the board shall constitute a quorum, and special meetings of the board shall be called by the secretary upon written request of any two members of the board or upon a written request signed by ten registered environmental health specialists.

(6) All board meetings shall be open to any registered environmental health specialist.

(7) The secretary of the board shall transmit any and all funds received by the board to the Department of Health Department of Health and Human Services Regulation and Licensure, Bureau of Examining Boards. Such funds shall be remitted to the State Treasurer and by him or her credited to the Board of Registration for Environmental Health Specialists Fund, which fund is hereby created. All expenses of the board shall be paid from the fund by voucher signed by the chief of the Bureau of Examining Boards, and no part of the General Fund shall be expended for this purpose. Any money in the Board of Registration for Environmental Health Specialists Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(8) Funds collected under sections 71-3702 to 71-3715 shall be used to pay expenses. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including authorized compensation and clerical help, and any expenses incident to the administration of such sections relating to other states shall be paid out of such funds. Any surplus at the end of the fiscal year or biennium shall be retained by the board for future expenditures.

(9) The board shall receive all registration renewal funds above the necessary operating expenses incurred by the Department of Health Department of Health and Human Services Regulation and Licensure, Bureau of Examining Boards, for annual renewal of registration.

Sec. 669. Section 71-4302, Reissue Revised Statutes of Nebraska, is amended to read:

71-4302. The Department of Health Department of Health and Human Services Regulation and Licensure shall prepare, adopt, and have printed minimum sanitary and safety requirements in the form of regulations for the design, construction, equipment, and operation of swimming pools and bather preparation facilities.

Sec. 670. Section 71-4303, Reissue Revised Statutes of Nebraska, is amended to read:

71-4303. No swimming pool shall be constructed after January 1, 1970, unless and until plans, specifications, and any additional information relative to such pool as may be requested by the Department of Health Department of Health and Human Services Regulation and Licensure shall have been submitted to such department and after review by such department found to comply with the minimum sanitary and safety requirements provided in section 71-4302 and a permit for the construction of the pool issued by such department.

Sec. 671. Section 71-4304, Reissue Revised Statutes of Nebraska, is amended to read:

71-4304. After January 1, 1970, swimming pools shall have equipment and shall be operated so as to comply with the minimum sanitary and safety requirements provided in section 71-4302. After such date no swimming pool shall operate until it has received a permit from the Department of Health Department of Health and Human Services Regulation and Licensure. Application

for a permit to operate shall be submitted on forms provided by such department. Swimming pools constructed prior to January 1, 1970, which do not fully comply with the minimum sanitary and safety requirements as regards design and construction may be continued in use for such period as the Department of Health Department of Health and Human Services Regulation and Licensure may authorize if the equipment and operation of such swimming pool comply with the minimum sanitary and safety requirements.

Sec. 672. Section 71-4305, Reissue Revised Statutes of Nebraska, is amended to read:

71-4305. (1) The Department of Health Department of Health and Human Services Regulation and Licensure shall make at least one inspection every year of each swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements.

(2) The owner and operator of any swimming pool shall submit such operation and analytical records as may be requested at any time by the Department of Health Department of Health and Human Services Regulation and Licensure to determine the sanitary and safety condition of the swimming pool.

(3) The distinction between Class A and Class B swimming pools shall be prescribed by regulation by the Department of Health Department of Health and Human Services Regulation and Licensure. The Department of Health department shall charge engineering firms, swimming pool owners and operators, and other appropriate parties fees established by regulation for the review of plans and specifications of a swimming pool, the issuance of a license or permit, the provision of swimming pool operator testing services, the inspection of a swimming pool, and any other services rendered at a rate which defrays no more than the actual cost of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

All fees collected under this section shall be deposited in the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. The Department of Health Department of Health and Human Services Regulation and Licensure shall not charge a municipal corporation an inspection fee for an inspection of a swimming pool owned by such municipal corporation.

Sec. 673. Section 71-4306, Reissue Revised Statutes of Nebraska, is amended to read:

71-4306. Whenever any duly authorized representative of the Department of Health Department of Health and Human Services Regulation and Licensure shall find that a swimming pool is being constructed, equipped, or operated in violation of any of the provisions of sections 71-4301 to 71-4307, the department may grant such time as in its opinion may reasonably be necessary for changing the construction or providing for the proper operation of the swimming pool to meet the provisions of sections 71-4301 to 71-4307. If and when the duly authorized representative of the department upon inspection and investigation of a swimming pool considers that the conditions are such as to warrant prompt closing of such swimming pool until the provisions of sections 71-4301 to 71-4307 are complied with, he or she shall notify the owner or operator of the swimming pool to prohibit any person from using the swimming pool and upon such notification to the sheriff and the county attorney of the county in which such pool is located, it shall be the duty of such county attorney and sheriff to see that the notice of the representative of the department shall be enforced. If and when the owner or operator of the pool has, in the opinion of the department, met the provisions of sections 71-4301 to 71-4307 the department may in writing authorize the use again of such swimming pool.

Sec. 674. Section 71-4401, Reissue Revised Statutes of Nebraska, is amended to read:

71-4401. For purposes of sections 71-4401 to 71-4412, unless the context otherwise requires:

(1) Domestic animal shall mean any dog or cat, and cat shall mean a cat which is a household pet;

(2) Vaccination against rabies shall mean the inoculation of a domestic animal with a rabies vaccine as approved by the rules and regulations adopted and promulgated by the Department of Health Department of Health and Human Services. Such vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska;

(3) Compendium shall mean the compendium of animal rabies vaccine as provided by the National Association of State Public Health Veterinarians;

(4) Department shall mean the Department of Health Department of Health and Human Services;

(5) Own, unless otherwise specified, shall mean to possess, keep, harbor, or have control of, charge of, or custody of a domestic animal. This

term shall not apply to domestic animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than thirty days;

(6) Owner shall mean any person possessing, keeping, harboring, or having charge or control of any domestic animal or permitting any domestic animal to habitually be or remain on or be lodged or fed within such person's house, yard, or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic animals owned by other persons for a period of not more than thirty days; and

(7) Rabies control authority shall mean county, township, city, or village health and law enforcement officials who shall enforce sections 71-4401 to 71-4412 relating to the vaccination and impoundment of domestic animals. Such public officials shall not be responsible for any accident or disease of a domestic animal resulting from the enforcement of such sections.

Sec. 675. Section 71-4603, Revised Statutes Supplement, 1994, is amended to read:

71-4603. For purposes of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, unless the context otherwise requires:

(1) Manufactured home shall mean a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home shall include any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act, as amended, 42 U.S.C. 5401 et seq. Manufactured home shall also include any manufactured home designed and manufactured with more than one separate living unit for the purpose of multifamily living;

(2) Recreational vehicle shall mean a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle shall include, but not be limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion;

(3) Travel trailer shall mean a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than three hundred twenty square feet;

(4) Camping trailer shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(5) Truck camper shall mean a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides and designed to be loaded onto and unloaded from the bed of a pickup truck;

(6) Motor home shall mean a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the departmental standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a potable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply;

(7) Park trailer shall mean a vehicular unit which meets the following criteria:

(a) Built on a single chassis mounted on wheels;

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;

(c) Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices; and

(d) Having a gross trailer area not exceeding four hundred square

feet when in the setup mode;

(8) Van conversion shall mean a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the department standard for recreational vehicles. Van conversion shall not include any such vehicle that lacks any plumbing, heating, or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry;

(9) Seal shall mean a device or insignia issued by the Department of Health Department of Health and Human Services Regulation and Licensure to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with the departmental standards. The federal manufactured-home label shall be recognized as a seal;

(10) Dealer shall mean a person licensed by the state pursuant to Chapter 60, article 14, as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(11) Distributor shall mean any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(12) Manufacturer shall mean any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(13) Manufactured-home construction shall mean all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, activities relating to durability, quality, and safety;

(14) Manufactured-home safety shall mean the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(15) Defect shall mean a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended but does not result in an unreasonable risk of injury or death to occupants;

(16) Imminent safety hazard shall mean a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(17) Purchaser shall mean the first person purchasing a manufactured home or recreational vehicle in good faith for purposes other than resale;

(18) Person shall mean any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles;

(19) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(20) Serious defect shall mean a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to the occupants;

(21) Noncompliance shall mean a failure to comply with an applicable construction standard that does not constitute a defect, a serious defect, or an imminent safety hazard;

(22) Failure to conform shall mean a defect, a serious defect, noncompliance, or an imminent safety hazard related to the code;

(23) Fifth-wheel trailer shall mean a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle; and

(24) Gross trailer area shall mean the total plan area measured on the exterior to the maximum horizontal projections of exterior wall in the setup mode and shall include all siding, corner trims, moldings, storage spaces, expandable room sections regardless of height, and areas enclosed by windows but shall not include roof overhangs. Storage lofts contained within the basic unit shall have ceiling heights less than five feet and shall not constitute additional square footage.

Sec. 676. Section 71-4604, Revised Statutes Supplement, 1994, is amended to read:

71-4604. All body and frame design and construction and all plumbing, heating, and electrical systems installed in manufactured homes or recreational vehicles manufactured more than four months after May 27, 1975, and sold, offered for sale, or leased in this state shall be at least equal to the standards adopted and approved by the department by regulation. The standards adopted by the department pertaining to manufactured homes shall conform to the Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, and the Manufactured Home Procedural and Enforcement Regulations, 24 C.F.R. 3282, adopted by the United States Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq. Manufactured homes and recreational vehicles destined for sale outside the United States shall be exempt from such regulations if sufficient proof of such delivery is submitted to the Department of Health Department of Health and Human Services Regulation and Licensure for review. The department may adopt standards pertaining to manufactured homes designed and manufactured for the purpose of multifamily living, which standards shall protect the health and safety of persons living in multifamily manufactured homes and may include, but need not be limited to, requirements for fire safety, thermal protection, water and fuel shutoff valves, fuel supply inlets, circulation air systems, and electrical systems. Multifamily manufactured homes manufactured in this state solely for purposes of sale in any other state or jurisdiction shall be exempt from the requirements of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. The standards pertaining to recreational vehicles shall (1) protect the health and safety of persons living in recreational vehicles, (2) assure reciprocity with other states that have adopted standards which protect the health and safety of persons living in recreational vehicles the purpose of which is to make uniform the law of those states which adopt them, and (3) allow variations from such uniform standards as will reduce unnecessary costs of construction or increase safety, durability, or efficiency, including energy efficiency, of the recreational vehicle without jeopardizing such reciprocity.

Sec. 677. Section 71-4604.01, Revised Statutes Supplement, 1994, is amended to read:

71-4604.01. (1) Every manufactured home or recreational vehicle manufactured more than four months after May 27, 1975, which is sold, offered for sale, or leased in this state shall bear a seal issued by the department certifying that the body and frame design and construction and the plumbing, heating, and electrical systems of such manufactured home or recreational vehicle have been installed in compliance with the standards adopted by the department, applicable at the time of manufacture. Manufactured homes and recreational vehicles destined for sale outside the United States shall be exempt from displaying the seal issued by the department if sufficient proof of such delivery is submitted to the department for review. The department shall issue the recreational-vehicle seal upon an inspection of the plans and specifications for the recreational vehicle or upon an actual inspection of the recreational vehicle during or after construction if the recreational vehicle is in compliance with the departmental standards. The department shall issue the manufactured-home seal in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq. Each seal issued by the department shall remain the property of the department and may be revoked by the department in the event of a violation of the conditions of issuance.

(2) A fee of not less than ten dollars nor more than fifty dollars, as determined by departmental regulation, shall be charged for each seal issued by the department. A seal shall be placed on each living unit within a multifamily manufactured home, and the seal fee assessed for each living unit shall be one-half of the seal fee for a single-family manufactured home. Inspection fees shall be paid for all departmental inspections of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual departmental travel, personnel, and inspection expenses only and shall be paid prior to any issuance of seals.

(3) The department shall adopt and promulgate rules and regulations governing the submission of plans and specifications of manufactured homes and recreational vehicles. A person who submits recreational-vehicle plans and specifications to the department for review and approval shall be charged for departmental engineering services provided for performing the review of the plans and specifications and related functions at a rate of not less than fifteen dollars per hour nor more than fifty dollars per hour as determined by

rule and regulation based on the number of hours of review time as follows:

- (a) New model, one hour;
- (b) Quality control manual, two hours;
- (c) Typical, one-half hour;
- (d) Revisions, three-fourths hour;
- (e) Engineering calculations, three-fourths hour;
- (f) Initial package, fifteen hours; and
- (g) Yearly renewal, two hours plus the three-fourths hour for revisions.

(4) The department shall charge each manufacturer a fee of seventy-five dollars for each inspection of any new recreational vehicle manufactured by such manufacturer and not bearing a seal issued by the State of Nebraska or some reciprocal state.

(5) All fees collected pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the code.

Sec. 678. Section 71-4621, Revised Statutes Supplement, 1994, is amended to read:

71-4621. As used in sections 71-4621 to 71-4634 the Uniform Standard Code for Mobile Home Parks, unless the context otherwise requires:

(1) Mobile home shall mean a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in section 71-4603;

(2) Mobile home lot shall mean a designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants;

(3) Mobile home park shall mean a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, or other structures temporarily maintained by any individual, corporation, limited liability company, company, or other entity on its own premises and used exclusively to house its own labor force;

(4) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure; and

(5) Person shall mean any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity, and shall include any trustee, receiver, assignee, or other legal representative thereof.

Sec. 679. Section 71-4624, Revised Statutes Supplement, 1994, is amended to read:

71-4624. (1) The application for the first or initial annual license shall be submitted with the requirements mentioned in section 71-4623 accompanied by the appropriate fees. The Department of Health Department of Health and Human Services Regulation and Licensure by regulation shall charge engineering firms, mobile home park owners and operators, and other appropriate parties fees established by regulation for the review of plans and specifications of a mobile home park, the issuance of a license or permit, the inspection of a mobile home park, and any other services rendered at a rate which defrays no more than the actual costs of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

(2) All fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the Uniform Standard Code for Mobile Home Parks.

(3) When any application is received, the department shall cause the mobile home park and appurtenances to be inspected by representatives of the department. When such inspection has been made and the department finds that all of the provisions of the Uniform Standard Code for Mobile Home Parks and the rules, regulations, and standards of the department have been met by the applicant, the department shall issue an annual license. Inspection by the

department or its authorized representatives at any time of a mobile home park shall be a condition of continued licensure.

Sec. 680. Section 71-4635, Reissue Revised Statutes of Nebraska, is amended to read:

71-4635. The Department of Health Department of Health and Human Services Regulation and Licensure may request the State Fire Marshal to inspect for fire safety any mobile home park for which a license or renewal of a license is sought, pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Sec. 681. Section 71-4701, Reissue Revised Statutes of Nebraska, is amended to read:

71-4701. As used in sections 71-4701 to 71-4719, unless the context otherwise requires:

(1) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(2) License shall mean a license issued by the state under such sections to hearing aid instrument dispensers and fitters;

(3) Temporary license shall mean a license issued while the applicant is in training to become a licensed hearing aid instrument dispenser and fitter;

(4) Board shall mean the Board of Hearing Aid Instrument Dispensers and Fitters;

(5) Hearing aid shall mean any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including earmold, but excluding batteries and cords. A hearing aid shall also be known as a hearing instrument;

(6) Practice of fitting hearing aids shall mean the measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for earmolds. A dispenser, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing; and

(7) Sell, sale, or dispense shall mean any transfer of title or of the right to use by lease, bailment, or any other contract, excluding (a) wholesale transactions with distributors or dispensers and (b) distribution of hearing aids by nonprofit service organizations at no cost to the recipient for the hearing aid.

Sec. 682. Section 71-4728.03, Revised Statutes Supplement, 1995, is amended to read:

71-4728.03. The commission shall implement section 71-4728.02 with the advice of a special advisory committee appointed by the commission. The committee shall consist of five members as follows: Three counselors familiar with mental health, alcoholism, and drug abuse disorders in hearing-impaired persons and two human services professionals. The Department of Public Institutions Department of Health and Human Services and the commission shall each have a representative who serves on the committee in a nonvoting technical capacity.

Sec. 683. Section 71-4813, Reissue Revised Statutes of Nebraska, is amended to read:

71-4813. When an autopsy is performed by the physician authorized by the county coroner to perform such autopsy, the physician or an appropriately qualified designee with training in ophthalmologic techniques, as provided for in subsection (2) of section 71-4807, may remove eye tissue of the decedent for the purpose of transplantation. The physician may also remove the pituitary gland for the purpose of research and treatment of hypopituitary dwarfism and of other growth disorders. Removal of the eye tissue or the pituitary gland shall only take place if the:

(1) Autopsy was authorized by the county coroner;

(2) County coroner receives permission from the person having control of the disposition of the decedent's remains pursuant to section 71-1339; and

(3) Removal of eye tissue or of the pituitary gland will not interfere with the course of any subsequent investigation or alter the decedent's post mortem facial appearance.

The removed eye tissue or pituitary gland shall be transported to the Director of Health Director of Regulation and Licensure or any desired institution or health facility as prescribed by section 71-1341.



Sec. 684. Section 71-4816, Reissue Revised Statutes of Nebraska, is amended to read:

71-4816. (1) On or after July 1, 1989, the physician responsible for the completion and signing of the portion of the certificate of death entitled medical certificate of death or, if there is no such physician, the person responsible for signing the certificate of death shall attest on the death certificate whether organ or tissue donation was considered and whether consent was granted.

(2) After July 1, 1988, the Department of Health Department of Health and Human Services Regulation and Licensure shall make available the number of organ and tissue donors in Nebraska for statistical purposes.

Sec. 685. Section 71-4819, Revised Statutes Supplement, 1994, is amended to read:

71-4819. (1) The Director of Health Director of Health and Human Services shall educate residents of the state about:

- (a) The need for bone marrow donors;
- (b) The procedures required to become registered as a potential bone marrow donor, including the procedures for determining tissue type; and
- (c) The medical procedures a donor must undergo to donate bone marrow and the attendant risks of the procedures.

(2) The director shall make special efforts to educate and recruit persons of racial and ethnic minorities to volunteer as potential bone marrow donors.

(3) The director may use the press, radio, and television and may place educational materials in appropriate health care facilities, blood banks, and state and local agencies. The Director of Health Director of Health and Human Services, in conjunction with the Director of Motor Vehicles, shall make educational materials available at all places where motor vehicle operators' licenses are issued or renewed.

Sec. 686. Section 71-4901, Reissue Revised Statutes of Nebraska, is amended to read:

71-4901. The Department of Health Department of Health and Human Services shall establish a program for the care and treatment of persons suffering from chronic renal diseases. This program shall assist persons suffering from chronic renal diseases who require life-saving care and treatment for such renal disease, but who are unable to pay for such services on a continuing basis. For the purposes of sections 71-4901 to 71-4905, chronic renal disease is defined as that stage of renal function in which the kidney is no longer able to maintain the integrity of the internal environment of the organism which condition is of a permanent and deteriorating state. Such condition shall include but not be limited to the following: (1) Chronic glomerulo nephritis; (2) chronic pyelo nephritis; (3) nephrotic syndrome; (4) polycystic kidney disease; (5) kimmelstiel wilson disease; or (6) progressive focal glomerulitis such as lupus nephritis. For the purposes of sections 71-4901 to 71-4905, life-saving care and treatment is that care and treatment which requires constant medical attention and frequent hospitalization capable of restoring life or extending life beyond that normal for a person suffering from chronic renal disease.

Sec. 687. Section 71-4902, Reissue Revised Statutes of Nebraska, is amended to read:

71-4902. The Governor shall appoint a renal disease advisory committee to consult with and advise the Department of Health Department of Health and Human Services in the administration of the provisions of sections 71-4901 to 71-4905. Members of such committee shall be chosen with geographical balance. The committee shall be composed of four persons representing hospitals, medical centers, and physicians trained in the area of renal disease. Of the members of the committee to be appointed, one shall be appointed from the University of Nebraska Medical Center, one shall be a practicing physician within the State of Nebraska who has a special interest in the care, treatment, and study of renal disease and has a current practice and training in that field, and one shall be an administrator from a hospital in the State of Nebraska who has an active unit engaged in hemodialysis treatments or other renal disease treatments. The fourth member shall be chosen from voluntary agencies within the State of Nebraska interested in kidney diseases. Each member shall hold office for a term of two years and until a successor is appointed and qualified, except that the terms of the members first taking office shall expire as designated at the time of appointment, two at the end of the first year and two at the end of the second year after the date of appointment. Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. The committee shall meet as frequently as the Director of Health Director of

Health and Human Services or the chairperson of the renal disease advisory committee deems necessary, but not less than twice each year. Committee members, while serving on business of the committee, shall receive compensation at the rate of twenty dollars per day and shall also be entitled to receive actual and necessary travel subsistence expenses while so serving as provided in sections 81-1174 to 81-1177. ~~for state employees.~~ Upon request of three or more members, it shall be the duty of the Director of Health ~~Director of Health and Human Services~~ to call a meeting of the committee.

Sec. 688. Section 71-4903, Reissue Revised Statutes of Nebraska, is amended to read:

71-4903. The Department of Health ~~Department of Health and Human Services~~ shall:

(1) With the advice and consent of the renal disease advisory committee, develop standards for determining eligibility for care and treatment under this program and establish standards and qualifications of those patients unable to pay for treatment of chronic renal disease on a continuing basis. Such standards shall require that an individual:

(a) Shall be a bona fide resident of the State of Nebraska;

(b) Shall not be able to pay the total cost of such needed care and treatment without depriving himself or herself or those legally dependent upon him or her for their necessities of life;

(c) Shall not have deprived himself or herself, directly or indirectly, of any property for the purpose of qualifying for assistance under the provisions of sections 71-4901 to 71-4905;

(d) Shall not have relatives legally responsible to provide such care and treatment who refuse or neglect to provide such care and treatment in whole or in part without good cause; and

(e) Shall be a proper candidate for such care and treatment, including willingness of that person to receive such care and treatment;

(2) Assist in the development and expansion of programs for the care and treatment of persons suffering from chronic renal diseases, including dialysis, transplant, and other medical procedures and techniques which will have a life-saving effect in the care and treatment of persons suffering from these diseases;

(3) Assist in the development of programs for the prevention of chronic renal diseases;

(4) Extend financial assistance to persons suffering from chronic renal diseases in obtaining the medical, nursing, pharmaceutical, and technical services necessary in caring for such diseases, including the renting of home dialysis equipment, and extend financial assistance to donors to persons suffering from chronic renal diseases in obtaining the medical, nursing, pharmaceutical, and technical services necessary in caring for such donors;

(5) Assist in equipping dialysis centers and the planning of such on the basis of consultation with the comprehensive health planning office; and

(6) Institute and carry on an educational program among physicians, hospitals, public health departments, and the public concerning chronic renal diseases, including the dissemination of information and the conducting of educational programs concerning the prevention of chronic renal diseases and the methods for the care and treatment of persons suffering from these diseases.

Sec. 689. Section 71-4904, Reissue Revised Statutes of Nebraska, is amended to read:

71-4904. There is hereby created in the Department of Health ~~Department of Health and Human Services~~ the Chronic Renal Disease Cash Fund. The fund shall be used for payment of services, granting of financial assistance, and participation in other state and federal programs for the purpose of caring for persons suffering from chronic renal disease. ~~All funds in the Chronic Renal Disease Cash Fund for the period of July 1, 1972, to June 30, 1973, are hereby appropriated.~~

Sec. 690. Section 71-5001, Revised Statutes Supplement, 1994, is amended to read:

71-5001. Sections 71-5001 to 71-5014 shall be known and may be cited as the Nebraska Comprehensive Community Mental Health Services Act. It is hereby declared to be the public policy of the State of Nebraska that all persons residing in Nebraska shall have access to mental health facilities, programs, and services. Such mental health facilities, programs, and services shall meet standards established by the Medical Services Division of the Department of Public Institutions ~~Department of Health and Human Services~~ subject to the requirements of section 71-5003. The act is intended to organize and provide methods of financing community mental health facilities,

programs, and services, to provide for more effective utilization of existing mental health resources, to provide a means for participation of local communities in the determination of the need for and allocation of mental health facilities, programs, and services, to provide a means to grant state mental health funds as appropriated for community needs, to define administrative structure, and to coordinate and integrate such programs with other human service programs. It is the intent of the Legislature that, as state funds for new and expanded community mental health services become available, a portion of such funds be utilized to meet the mental health service needs of children and youth as identified by the regional governing boards.

Sec. 691. Section 71-5002, Reissue Revised Statutes of Nebraska, is amended to read:

71-5002. As used in the Nebraska Comprehensive Community Mental Health Services Act, unless the context otherwise requires:

(1) Director shall mean the Director of Medical Services of the Department of Public Institutions Department of Health and Human Services or such officer of the department as he or she may designate to carry out in whole or in part the administration of the act;

(2) Department shall mean the Department of Public Institutions Department of Health and Human Services;

(3) Services shall mean those mental health services, programs, and facilities which under the act provide (a) inpatient services, (b) outpatient services, (c) partial care services, (d) twenty-four-hour emergency services, (e) consultation and education services, (f) specialized services as federal legislation may require, (g) specialized mental health services for children and youth, or (h) other forms of preventive, treatment, or rehabilitation services which are designed to promote, restore, and maintain the mental health of the people of Nebraska;

(4) Program administrator shall mean the chief executive officer of each comprehensive community mental health services program;

(5) Income shall mean fees from workshops, board and room payments, and receipts from patients, relatives of patients receiving services, or third-party payments;

(6) There shall be six mental health regions. The mental health regions shall consist of the following counties:

(a) Region I shall consist of Sioux, Dawes, Box Butte, Sheridan, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne, and Deuel counties;

(b) Region II shall consist of Grant, Hooker, Thomas, Arthur, McPherson, Logan, Keith, Lincoln, Perkins, Chase, Hayes, Frontier, Dawson, Gosper, Dundy, Hitchcock, and Red Willow counties;

(c) Region III shall consist of Blaine, Loup, Garfield, Wheeler, Custer, Valley, Greeley, Sherman, Howard, Buffalo, Hall, Phelps, Kearney, Adams, Clay, Furnas, Harlan, Hamilton, Merrick, Franklin, Webster, and Nuckolls counties;

(d) Region IV shall consist of Cherry, Keya Paha, Boyd, Brown, Rock, Holt, Knox, Cedar, Dixon, Dakota, Thurston, Wayne, Pierce, Antelope, Boone, Nance, Madison, Stanton, Cuming, Burt, Colfax, and Platte counties;

(e) Region V shall consist of Polk, Butler, Saunders, Seward, Lancaster, Otoe, Fillmore, Saline, Thayer, Jefferson, Gage, Johnson, Nemaha, Pawnee, York, and Richardson counties; and

(f) Region VI shall consist of Dodge, Washington, Douglas, Sarpy, and Cass counties; and

(7) Service agency shall mean any public or private agency or organization which delivers any of the services defined in subdivision (3) of this section and which receives funds under the Nebraska Comprehensive Community Mental Health Services Act.

Sec. 692. Section 71-5008, Revised Statutes Supplement, 1994, is amended to read:

71-5008. (1) The State Mental Health Planning and Evaluation Council is hereby created. The council shall:

(a) Identify program needs and offer guidance to the department on program priorities for the state;

(b) Provide objective input, feedback, and comment on state plans proposed by the department;

(c) Act as an advocate for the interests of consumers and their families;

(d) Monitor the implementation of the state plans and provide evaluation of those plans;

(e) Offer to the executive and legislative branches of state government any proposals or recommendations that the council deems appropriate. The council shall report its findings and recommendations to the

Governor and the Legislature by October 1 of each year;'

(f) Serve as the state's mental health planning council as required by Public Law 102-321; and

(g) Examine and make recommendations in regard to policies and practices for meaningful consumer participation in the treatment planning process.

(2) The council shall consist of not more than thirty-four members appointed by the Governor as follows:

(a) One member of a regional governing board established pursuant to section 71-5004;

(b) Not less than fourteen consumers and family members, with no more than four from any one region. The consumer representatives and the family representatives shall be as nearly as possible equal in number;

(c) One regional program administrator;

(d) Six service providers, with no more than one from each region and no more than two representing any one particular discipline;

(e) One representative from the Division of Vocational Rehabilitation of the State Department of Education;

(f) One representative from the Department of Social Services Department of Health and Human Services Finance and Support;

(g) One representative from the Department of Public Institutions Department of Health and Human Services;

(h) One representative from the Nebraska Commission on Law Enforcement and Criminal Justice;

(i) One representative from the Housing Office of the Community and Rural Development Division of the Department of Economic Development;

(j) One representative from the State Department of Education other than the member appointed under subdivision (e) of this subsection; and

(k) Other members as appointed by the Governor.

The respective constituencies listed in subdivisions (a) through (d) of this subsection shall submit lists of nominees to the Governor for his or her consideration in making the appointments required by such subdivisions. The Commissioner of Education, the Director of Social Services Director of Finance and Support, the Director of Public Institutions Director of Health and Human Services, the executive director of the commission, and the Director of Economic Development shall submit lists of nominees to the Governor for his or her consideration in making the appointments required by subdivisions (e) through (j), respectively, of this subsection.

(3) The initial members of the council shall be appointed for staggered terms of three years, as determined by the Governor. As the terms of the initial members expire, their successors shall be appointed for terms of three years. The council shall elect a chairperson from the members of such council.

(4) The council shall meet on a quarterly basis. Upon receiving the written approval of the Director of Public Institutions Director of Health and Human Services, the chairperson may appoint and utilize a task force of council members and nonmembers to report to the council on specific areas.

(5) Members of the council shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 693. Section 71-5014, Revised Statutes Supplement, 1994, is amended to read:

71-5014. Persons receiving mental health, drug abuse, and alcoholism services shall be charged fees in accordance with their ability to pay but not in excess of actual cost. The Director of Public Institutions Director of Health and Human Services shall prepare and adopt a uniform patient fee schedule to be used by the governing board in all mental health facilities, programs, and services funded in whole or in part under the Nebraska Comprehensive Community Mental Health Services Act. The scheduled fees may be reduced or waived by authorization of the program administrator as may be considered necessary to further the objective of the facilities, programs, and services. No services covered under the act or sections 71-5015 to 71-5041 may be denied residents of Nebraska because of inability to pay scheduled fees.

Sec. 694. Section 71-5017, Reissue Revised Statutes of Nebraska, is amended to read:

71-5017. Department shall mean the Department of Public Institutions Department of Health and Human Services.

Sec. 695. Section 71-5018, Revised Statutes Supplement, 1995, is amended to read:

71-5018. Director shall mean the Director of the Division of Alcoholism, Drug Abuse, and Addiction Services of the Department of Public Institutions Department of Health and Human Services.

Sec. 696. Section 71-5019, Revised Statutes Supplement, 1995, is amended to read:

71-5019. Division shall mean the Division of Alcoholism, Drug Abuse, and Addiction Services of the Department of Public Institutions Department of Health and Human Services.

Sec. 697. Section 71-5024, Reissue Revised Statutes of Nebraska, is amended to read:

71-5024. The State Alcoholism and Drug Abuse Advisory Committee is hereby created. The committee shall advise and provide recommendations to the Director of Public Institutions Director of Health and Human Services on planning and policy issues to assist the department in fulfillment of its role in providing a comprehensive and statewide plan for alcoholism and drug abuse prevention and treatment services and to provide leadership and coordination for the entire system of such providers, including advice on minimum standards, equitable provision of alcoholism and drug abuse services, program priorities, encouragement of research, and other matters as necessary to insure implementation of the provisions of sections 71-5016 to 71-5040, 83-1009, and 83-1009.01.

Sec. 698. Section 71-5026, Reissue Revised Statutes of Nebraska, is amended to read:

71-5026. The committee shall elect a chairperson from its members. The committee shall meet not less than once each quarter. Upon receiving the written approval of the Director of Public Institutions Director of Health and Human Services, the chairperson may appoint and utilize a task force of committee members and nonmembers to report to the committee on specific areas. The members of the committee or task force shall be reimbursed for actual and necessary expenses incurred in carrying out their duties as provided in sections 81-1174 to 81-1177, for state employees.

Sec. 699. Section 71-5032, Reissue Revised Statutes of Nebraska, is amended to read:

71-5032. (1) The regional governing boards, created pursuant to section 71-5004, shall appoint a program comptroller within ninety days of June 1, 1977. The comptroller shall be responsible directly to the governing board for the fiscal management of mental health, drug abuse, and alcoholism programs, services, and facilities.

(2) The comptroller shall develop a fiscal management system consistent with rules and regulations promulgated by the Director of Public Institutions Director of Health and Human Services.

(3) The governing board may permit the employment of staff by the comptroller as deemed necessary by the governing board.

(4) The comptroller appointed shall meet such minimum qualifications as shall be established by the department.

Sec. 700. Section 71-5034, Revised Statutes Supplement, 1994, is amended to read:

71-5034. (1) Upon notification from the department of its final amount of state aid as set by the Legislature, each governing board shall prepare a plan of expenditures for the fiscal year for which such amount was set. Such plans of expenditures shall be submitted to the department on forms prescribed by the department not later than July 1 of the fiscal year for which the amount of state aid was set.

(2) The department shall review such plans of expenditures to determine whether such plans conform with statewide plans and the minimum standards, rules, and regulations adopted pursuant to the Nebraska Comprehensive Community Mental Health Services Act and sections 71-5016 to 71-5040, 83-1009, and 83-1009.01. Upon examination, the Director of Public Institutions Director of Health and Human Services shall approve such plans of expenditures or shall require such changes or additional information from any governing board as may be necessary to permit such approval. No state matching funds shall be allocated to a mental health region prior to the approval of a plan of expenditure.

Sec. 701. Section 71-5043, Revised Statutes Supplement, 1995, is amended to read:

71-5043. The Legislature finds and declares that:

(1) Community-based mental health services substantially enrich the lives of persons with mental illness and enable such persons to become more productive and involved members of society and the provision of such services supports the intent and purposes of the family policy objectives prescribed in sections 43-532 to 43-534;

(2) Rehabilitation and support services are needed in communities to provide persons disabled by severe and persistent mental illness with the opportunity for rehabilitation, housing, work, and supportive care;

(3) A supplemental program to the Nebraska Comprehensive Community

Mental Health Services Act should be implemented to provide incentives for the development of rehabilitation and support services;

(4) ~~The Department of Public Institutions~~ Department of Health and Human Services is the state mental health authority and is the primary state agency responsible for the planning and development of community-based rehabilitation and support mental health services in Nebraska. ~~The Department of Social Services~~ Department of Health and Human Services Finance and Support is the primary state medicaid authority. It is the intent of the Legislature that matching federal funds through the medicaid rehabilitation option will be used to develop middle-intensity, community-based services for Nebraskans with severe, persistent, and disabling psychiatric disorders;

(5) All available federal, state, and private resources, including specialized managed care for Nebraskans with severe, persistent, and disabling psychiatric disorders, should be effectively utilized; and

(6) Too few appropriately trained mental health professionals are available to meet the present and future needs of Nebraskans with severe, persistent, and disabling psychiatric disorders.

Sec. 702. Section 71-5044, Revised Statutes Supplement, 1995, is amended to read:

71-5044. For purposes of the Rehabilitation and Support Mental Health Services Incentive Act:

(1) ~~Departments means the Department of Public Institutions and the Department of Social Services~~ Department of Health and Human Services and the Department of Health and Human Services Finance and Support;

(2) Medicaid rehabilitation option means the agreement pursuant to federal law allowing matching federal funds to be available for middle-intensity, community-based services for Nebraskans with severe, persistent, and disabling psychiatric disorders;

(3) Mental health regions means the regions as defined in section 71-5002; and

(4) Rehabilitation and support services means services intended to provide persons disabled by severe and persistent mental illness and their families with the knowledge, skills, and support necessary to maximize independent functioning and participation in society and may include, but is not limited to, case management services, residential rehabilitation services, community-living services, residential support services, and vocational support services.

Sec. 703. Section 71-5048, Revised Statutes Supplement, 1995, is amended to read:

71-5048. ~~The Department of Social Services~~ Department of Health and Human Services Finance and Support shall take all lawful actions which would provide medicaid funds for the support of both treatment for persons with mental illness and rehabilitation and support services. Any such funds made available will be used to fund contracts between the State of Nebraska and service providers (1) for providing treatment services in support of the provision of rehabilitation and support services under the Rehabilitation and Support Mental Health Services Incentive Act, (2) for the actual provision of rehabilitation and support services, and (3) for services under Title XX of the federal Social Security Act, as amended.

Sec. 704. Section 71-5049, Revised Statutes Supplement, 1995, is amended to read:

71-5049. ~~The Department of Social Services~~ Department of Health and Human Services Finance and Support, in consultation with the ~~Department of Public Institutions~~ Department of Health and Human Services, professional provider organizations, advocates, consumers, and families of persons with severe, persistent, and disabling psychiatric disorders, shall apply for and implement the federal medicaid rehabilitation option and apply for any necessary waivers of federal law, with the goal of providing more effective community-based services, preventing unnecessary and expensive hospitalization, and promoting more effective utilization of the state's inpatient psychiatric facilities. The state may apply such in a revenue-neutral manner relative to the General Fund. The state shall cooperate with local governmental subdivisions to generate matching funds for medicaid rehabilitation option services with local approval.

Sec. 705. Section 71-5051, Revised Statutes Supplement, 1995, is amended to read:

71-5051. ~~The Department of Public Institutions~~ Department of Health and Human Services shall adopt policies to require all state-funded residential psychiatric services operated by the department to utilize an interdisciplinary professional staff administrative model. All categories of professional staff involved in psychiatric rehabilitation services in the regional center shall be integrated into the administrative structure of the



regional center if qualified by their direct administrative or management experience or training. Preference shall be given to the most cost-efficient use of professional staff in administrative positions or roles.

Sec. 706. Section 71-5102, Revised Statutes Supplement, 1995, is amended to read:

71-5102. For purposes of sections 60-337 and 71-5101 to 71-5164, unless the context otherwise requires:

- (1) Airway shall mean a route for the passage of air into and out of the lungs;
- (2) Ambulance or rescue service unit shall mean any privately or publicly owned motor vehicle that is especially designed, constructed or modified, and equipped and is intended to be used for and is maintained or operated for the overland transportation of patients upon the streets, roads, highways, or public ways in this state, including funeral coaches or hearses, or any other motor vehicles used for such purposes, but shall not include or mean any motor vehicle owned or operated under the direct control of an agency of the United States Government;
- (3) Ambulance attendant shall mean an individual trained or qualified to provide for, or any other individual who provides for, the care of patients while such patients are being transported in an ambulance;
- (4) Artificial airway shall mean a device that is inserted through the nose or mouth to allow passage of air and oxygen to the lungs;
- (5) Artificial ventilation shall mean opening the airway and restoring breathing by mouth-to-mouth or mouth-to-nose ventilation and by the use of mechanical devices;
- (6) Automatic defibrillator shall mean a monitor or device capable of rhythm analysis which will charge and deliver a shock after electronically detecting the presence of ventricular fibrillation or rapid ventricular tachycardia;
- (7) Basic life support shall mean those acts ordinarily performed after training by emergency medical technicians, including the use of oxygen, syrup of ipecac, pharyngeal airways, and pneumatic antishock garments, and not specifically preempted and separately licensed under the Emergency Medical Technician-Paramedic Act. When special training and certification requirements have been met, basic life support shall also include the use of automatic and semiautomatic defibrillators, the administration and maintenance of intravenous fluids, and the administration of nonvisualized advanced airway management devices;
- (8) Board shall mean the Board of Ambulance Advisors;
- (9) Certification shall mean formal notice of certain privileges and abilities after completion of certain training and testing;
- (10) Certified ambulance attendant shall mean any individual fulfilling the requirements of section 71-5109 and shall include an emergency medical technician meeting such requirements regardless of whether such emergency medical technician is a member of a transporting ambulance service or rescue service;
- (11) Contraindication shall mean a condition that renders a medical procedure, treatment, or medication undesirable;
- (12) Defibrillation shall mean the automatic or semiautomatic application of electrocountershock therapy to persons in ventricular fibrillation or rapid ventricular tachycardia;
- (13) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;
- (14) Division shall mean the Division of Emergency Medical Services of the department;
- (15) Electrolytes shall mean salts dissolved in body fluids and cells;
- (16) Emergency medical technician shall mean a prehospital emergency care provider trained and certified to that level of basic life support prescribed in subsection (2) of section 71-5109 and for such other skills as determined by the department;
- (17) Emergency medical technician-A/D or emergency medical technician-automatic/defibrillator shall mean an emergency medical technician who has been additionally trained, tested, and certified in the use and operation of automatic or semiautomatic defibrillators pursuant to rules and regulations adopted and promulgated by the department pursuant to sections 71-5101 to 71-5140;
- (18) Emergency medical technician-A/D service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-A/D and a physician medical director to provide prehospital emergency care and to provide defibrillation;
- (19) Emergency medical technician-AM or emergency medical

technician-airway management shall mean an emergency medical technician who has been additionally trained, tested, and certified in the use and operation of nonvisualized advanced airway management devices pursuant to rules and regulations adopted and promulgated by the department;

(20) Emergency medical technician-AM service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-AM and a physician medical director to provide prehospital emergency care and to provide nonvisualized advanced airway management;

(21) Emergency medical technician-IV or emergency medical technician-intravenous shall mean an emergency medical technician who has been additionally trained, tested, and certified in the use and operation of peripheral intravenous line initiation and maintenance pursuant to rules and regulations adopted and promulgated by the department;

(22) Emergency medical technician-IV service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-IV and a physician medical director to provide prehospital emergency care and to provide peripheral intravenous line initiation and maintenance;

(23) Endotracheal intubation shall mean a method of airway management in which a tube is placed through a patient's mouth or nose and directly through the larynx between the vocal cords while visualizing the vocal cords and into the trachea for the purpose of opening and maintaining an airway;

(24) First responder-A/D or first responder-automatic/defibrillator shall mean a first responder who has been additionally trained, tested, and certified in the use and operation of automatic or semiautomatic defibrillators pursuant to rules and regulations adopted and promulgated by the department pursuant to sections 71-5101 to 71-5140;

(25) First responder-A/D service shall mean a first responder service utilizing first responders-A/D and a physician medical director to provide prehospital emergency care and to provide defibrillation;

(26) Hypovolemic shock shall mean shock resulting from loss of body fluid or blood;

(27) Infusion shall mean the introduction of fluid other than blood or blood products into the vascular system;

(28) Intravenous shall mean within the vein;

(29) Intravenous line shall mean a polyethylene catheter through which fluids are given directly into a vein;

(30) Oropharyngeal airway shall mean an artificial airway positioned in the mouth to prevent blockage of the upper airway by the tongue;

(31) Oxygen shall mean a gas that is necessary for breathing and is found free in the air;

(32) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(33) Peripheral intravenous therapy shall mean infusion of fluid other than blood or blood products into the vascular system to establish and maintain access to the circulation or to provide fluids in order to maintain an adequate circulatory blood volume;

(34) Person shall mean an individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity and shall include any trustee, receiver, assignee, or other legal representative thereof but shall not include any agency of the United States Government;

(35) Physician medical director shall mean a physician licensed to practice medicine and surgery pursuant to the Uniform Licensing Law who is responsible for the medical supervision of certified emergency medical technicians-A/D, emergency medical technicians-IV, or emergency medical technicians-AM and is responsible for proctoring their proficiency maintenance and continuing education requirements;

(36) Primary response service area shall mean the primary geographic area which an ambulance service, first responder-A/D service, emergency medical technician-A/D service, emergency medical technician-AM service, or emergency medical technician-IV service serves and which such service has sufficient staff and equipment to reasonably serve;

(37) Protocols shall mean a set of written policies, procedures, and directions from a physician medical director to an emergency medical technician concerning the medical procedures to be performed in specific situations;

(38) Resuscitation shall mean restoring to life or consciousness by using assisted breathing to restore ventilation and cardiopulmonary



resuscitation or defibrillation to restore circulation;

(39) Semiautomatic defibrillator shall mean a monitor or device which is capable of electronically detecting a ventricular fibrillation and rapid ventricular tachycardia but requires user interaction in order to deliver a shock;

(40) Standing orders shall mean a direct order from the physician medical director to perform certain tasks for a patient under a specific set of circumstances;

(41) Syrup of ipecac shall mean a preparation of the direct root of a shrub found in Brazil and other parts of South America that can cause vomiting; and

(42) Ventilation shall mean the exchange of air between the lungs and the air of the environment as in breathing.

Sec. 707. Section 71-5114, Reissue Revised Statutes of Nebraska, is amended to read:

71-5114. The department may accept from any person, firm, corporation, governmental agency, or other entity in the name of and for the state, services, equipment, supplies, materials, or funds by way of bequest, gift, or grant for the purposes of promoting emergency medical services. Any such funds received shall be paid into the state treasury and shall be credited by the State Treasurer to the Department of Health and Human Services Regulation and Licensure Cash Fund, which is hereby created:

Sec. 708. Section 71-5165, Revised Statutes Supplement, 1994, is amended to read:

71-5165. The Department of Health Department of Health and Human Services Regulation and Licensure shall adopt and promulgate the rules and regulations to implement the First Responders Emergency Rescue Act and sections 71-5101 to 71-5164.

Sec. 709. Section 71-5167, Revised Statutes Supplement, 1994, is amended to read:

71-5167. The Legislature finds that trauma is recognized as the leading killer of persons from one to forty-four years of age and is a serious yet preventable disease. The State of Nebraska incurs a massive expense from trauma in lives lost and productive years destroyed. The experience of other states has shown that a comprehensive trauma system, including all phases of trauma care, such as education, prevention, prehospital care, trauma center designation, and rehabilitative care, can vastly improve outcome.

It is the intent of the Nebraska Trauma Systems Development Act to designate the Department of Health Department of Health and Human Services Regulation and Licensure to be responsible for the coordination and integration of all state activities concerning complete trauma care system organization and functioning. It is also the intent of the act to provide for the planning and development of prompt, efficient, and effective emergency trauma care, a well-coordinated trauma care system, effective communication between prehospital care providers and hospitals, and the safe handling and transportation of the sick and injured. Such system is intended to promote the public health, safety, and welfare by providing for the creation of a statewide trauma care system with standards for all providers of trauma services.

Sec. 710. Section 71-5168, Revised Statutes Supplement, 1994, is amended to read:

71-5168. For purposes of the Nebraska Trauma Systems Development Act:

(1) Board shall mean the Nebraska Trauma Systems Development Board created by section 71-5169;

(2) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(3) Trauma shall mean a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability; and

(4) Trauma care system shall mean a part of the health care system from time of initial injury to appropriate level of care, rehabilitation, and functioning as a member of the community at the maximum level of wellness and shall include prevention.

Sec. 711. Section 71-5205, Reissue Revised Statutes of Nebraska, is amended to read:

71-5205. The family practice residency program may be funded in part by grants provided by the Department of Social Services Department of Health and Human Services Finance and Support or other agencies of the federal government. If such grants are provided, the Legislature shall not provide funding for such program.

Sec. 712. Section 71-5301, Revised Statutes Supplement, 1994, is

amended to read:

71-5301. As used in the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

(1) Council shall mean the Advisory Council on Public Water Supply;  
 (2) Director shall mean the Director of Health ~~Director of Regulation and Licensure~~ or his or her authorized representative;

(3) Designated agent shall mean any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the provisions of the Nebraska Safe Drinking Water Act and with whom the director has consummated a legal and binding contract covering specifically delegated responsibilities;

(4) Major construction, extension, or alteration shall mean those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but shall not include the extension of service mains within established service areas;

(5) Operator shall mean the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;

(6) Owner shall mean any person owning or operating a public water supply system;

(7) Person shall mean any individual, firm, partnership, limited liability company, association, company, corporation, political subdivision, or other entity;

(8) Water supply system shall mean all sources of water and their surroundings under the control of one owner and shall include all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;

(9) Public water supply system shall mean a water supply system designed to provide the public piped water fit for human consumption if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. This definition shall include, but not be limited to, (a) any collection, treatment, storage, or distribution facilities under control of the operator of such system and used primarily in connection with such system and (b) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system;

(10) Drinking water standards shall mean rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the director, may have an adverse effect on the health of persons and (b) apply only to public water supply systems; and

(11) Lead free (a) when used with respect to solders and flux shall mean solders and flux containing not more than two-tenths percent lead and (b) when used with respect to pipe and pipe fittings shall mean pipe and pipe fittings containing not more than eight percent lead.

Sec. 713. Section 71-5303, Reissue Revised Statutes of Nebraska, is amended to read:

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. No fee shall be charged for the issuance of such permit.

(2) The director shall inspect public water supply systems and report findings to the owner, publish a list of those systems not in compliance, and promote the training of and certify the competence of operators. The director may deny, revoke, suspend, or refuse renewal of a permit, issue administrative orders scheduling action to be taken, take emergency action as provided in section 71-5304.01, and seek a temporary or permanent injunction or such other legal process as is deemed necessary to obtain compliance with the Nebraska Safe Drinking Water Act.

(3) The ~~Department of Health~~ Department of Health and Human Services ~~Regulation and Licensure~~ may deny, revoke, suspend, or refuse to renew a permit for noncompliance with the act, the rules and regulations adopted and promulgated under the act, or the terms of a variance or exemption issued pursuant to section 71-5310.

(4) Any person shall be granted, upon request, an opportunity for a hearing before the department under 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.

Sec. 714. Section 71-5304.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5304.01. (1) Whenever the director has reason to believe that a

violation of any provision of the Nebraska Safe Drinking Water Act, any rule or regulation adopted and promulgated by the Department of Health Department of Health and Human Services Regulation and Licensure under such act, or any term of a variance or exemption issued pursuant to section 71-5310 has occurred, he or she may cause an administrative order to be served upon the permittee or permittees alleged to be in violation. Such order shall specify the violation and the facts alleged to constitute a violation and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless the permittee or permittees named in the order request in writing a hearing before the director no later than thirty days after the date such order is served. In lieu of such order, the director may require that the permittee or permittees appear before the director at a time and place specified in the notice and answer the charges. The notice shall be served on the permittee or permittees alleged to be in violation not less than thirty days before the time set for the hearing.

(2) Whenever the director finds that an emergency exists requiring immediate action to protect the public health and welfare concerning a material which is determined by the director to be harmful or potentially harmful to human health, the director may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply immediately and, on written application to the director, shall be afforded a hearing as soon as possible and not later than ten days after receipt of such application by such affected person. On the basis of such hearing, the director shall continue such order in effect, revoke it, or modify it.

(3) The director shall afford to the alleged violator an opportunity for a fair hearing before the department under the Administrative Procedure Act.

Sec. 715. Section 71-5304.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-5304.02. (1) The director may require a public water supply system to give notice to the persons served by the system and to the Department of Health Department of Health and Human Services Regulation and Licensure whenever the system:

(a) Is not in compliance with an applicable maximum contaminant level or treatment technique requirement of or a testing procedure prescribed by rules and regulations adopted and promulgated under the Nebraska Safe Drinking Water Act;

(b) Fails to perform monitoring, testing, analyzing, or sampling as required;

(c) Is subject to a variance or exemption; or

(d) Is not in compliance with the requirements prescribed by a variance or exemption.

(2) The director may require a public water supply system to give notice to the persons served by the public water supply system of potential sources of contamination as identified by the director under subsection (2) of section 71-5302, of possible health effects of such contamination, and of possible mitigation measures.

(3) The director shall by rule and regulation prescribe the form and manner for giving such notice.

Sec. 716. Section 71-5306, Reissue Revised Statutes of Nebraska, is amended to read:

71-5306. To carry out the provisions and purposes of the Nebraska Safe Drinking Water Act, the director may:

(1) Enter into agreements, contracts, or cooperative arrangements, under such terms as are deemed appropriate, with other state, federal, or interstate agencies or with municipalities, educational institutions, local health departments, or other organizations, entities, or individuals;

(2) Require all laboratory analyses to be performed at the Department of Health Department of Health and Human Services Regulation and Licensure Laboratory, or at any other laboratory which has entered into an agreement with the Department of Health Department of Health and Human Services Regulation and Licensure therefor, and establish and collect fees for making laboratory analyses of water samples pursuant to sections ~~71-2618~~ 71-2619 to 71-2621, except that subsection (6) of section 71-2619 shall not apply for purposes of the Nebraska Safe Drinking Water Act. Inspection fees for making other laboratory agreements shall be established and collected pursuant to sections ~~71-2618~~ 71-2619 to 71-2621;

(3) Receive financial and technical assistance from an agency of the

federal government or from any other public or private agency;

(4) Enter the premises of a public water supply system at any time for the purpose of conducting monitoring, making inspections, or collecting water samples for analysis;

(5) Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of the Nebraska Safe Drinking Water Act, including entering into agreements with designated agents which shall perform specifically delegated responsibilities and possess specifically delegated powers;

(6) Require the owner and operator of a public water supply system to establish and maintain records, make reports, and provide information as the Department of Health and Human Services Regulation and Licensure may reasonably require by regulation to enable it to determine whether such owner or operator has acted or is acting in compliance with the Nebraska Safe Drinking Water Act and rules and regulations adopted pursuant thereto. The department or its designated agent shall have access at all times to such records and reports; and

(7) Assess by regulation a fee for any review of plans and specifications pertaining to a public water supply system governed by section 71-5305 and a fee for any issuance or reissuance of a certificate of competency issued pursuant to sections 71-5307 to 71-5309 in order to defray no more than the actual cost of the services provided.

All such fees collected by the Department of Health and Human Services Regulation and Licensure shall be paid into the state treasury and shall be credited to the Safe Drinking Water Act Cash Fund, which is hereby created. Such fund shall be used by the department for the purpose of administering the Nebraska Safe Drinking Water Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 717. Section 71-5310, Reissue Revised Statutes of Nebraska, is amended to read:

71-5310. (1) The director, with the approval of the council, may authorize variances or exemptions from the drinking water standards issued pursuant to section 71-5302 under conditions and in such manner as they deem necessary and desirable. Such variances or exemptions shall be permitted under conditions and in a manner which are not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the federal Safe Drinking Water Act, Public Law 93-523, 93rd Congress.

(2) Prior to granting a variance or an exemption, the director shall provide notice, in a newspaper of general circulation serving the area served by the public water supply system, of the proposed exemption or variance and that interested persons may request a public hearing on the proposed exemption or variance. The director may require the system to provide other appropriate notice as he or she deems necessary to provide adequate notice to persons served by the system.

If a public hearing is requested, the director shall set a time and place for the hearing and such hearing shall be held before the Department of Health and Human Services Regulation and Licensure prior to the variance or exemption being issued. Frivolous and insubstantial requests for a hearing may be denied by the director. An exemption or variance shall be conditioned on monitoring, testing, analyzing, or other requirements to insure the protection of the public health. A variance or an exemption granted shall include a schedule of compliance under which the public water supply system is required to meet each contaminant level or treatment technique requirement for which a variance or an exemption is granted within a reasonable time as specified by the director with the approval of the council.

Sec. 718. Section 71-5310.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5310.01. Except as otherwise expressly provided, any notice, order, or other instrument issued by or under authority of the director under the Nebraska Safe Drinking Water Act may be served on any person affected by such notice, order, or other instrument, personally or by publication, and proof of such service may be made in like manner as in case of service of a summons in a civil action, such proof to be filed in the office of the Department of Health and Human Services Regulation and Licensure, or such service may be made by mailing a copy of the notice, order, or other instrument by certified or registered mail directed to the person affected at his or her last-known post office address as shown by the files or records of the department, and proof of service may be made by the affidavit

of the person who did the mailing and filed in the office of the department.

Every certificate or affidavit of service made and filed as provided in this section shall be prima facie evidence of the facts stated in such certificate or affidavit, and a certified copy shall have like force and effect.

Sec. 719. Section 71-5311, Reissue Revised Statutes of Nebraska, is amended to read:

71-5311. (1) There is hereby established the Advisory Council on Public Water Supply which shall advise and assist the department in administering the Nebraska Safe Drinking Water Act.

(2) The council shall be composed of seven members appointed by the Governor, (a) one of whom shall be a registered professional engineer, (b) one of whom shall be a licensed physician, (c) two of whom shall be consumers of a public water supply system, (d) two of whom shall be operators of a public water supply system who possess a certificate of competency issued by the Department of Health Department of Health and Human Services Regulation and Licensure to operate a public water supply system. One such operator shall represent a system serving a population of five thousand or less, and one such operator shall represent a system serving a population of more than five thousand, and (e) one of whom shall be, at the time of appointment, (i) an individual who owns a public water supply system, (ii) a member of the governing board of a public or private corporation which owns a public water supply system, or (iii) in the case of a political subdivision which owns a public water supply system, a member of the subdivision's governing board or board of public works or similar board which oversees the operation of a public water supply system.

Any owner or operator of a public water supply system serving on the council on March 2, 1989, shall continue to serve until the term of such member expires. As his or her term expires, such owner or operator shall be replaced by a person qualified as prescribed in subdivisions (d) and (e) of this subsection respectively.

(3) All members shall be appointed for three-year terms. No member shall serve more than three consecutive three-year terms. Each member shall hold office until the expiration of his or her term or until a successor has been appointed. Any vacancy occurring in council membership, other than by expiration of term, shall be filled within sixty days by the Governor by appointment from the appropriate category for the unexpired term.

(4) The council shall meet not less than once each year. Special meetings of the council may be called by the director or upon the written request of any two members of the council explaining the reason for such meeting. The place of the meeting shall be set by the director. Such officers as the council deems necessary shall be elected every three years beginning with the first meeting in the year 1990. A majority of the members of the council shall constitute a quorum for the transaction of business. Representatives of the department shall attend each meeting. Every act of the majority of the members of the council shall be deemed to be the act of the council.

(5) No member of the council shall receive any compensation, but each member shall be entitled, while serving on the business of the council, to receive his or her travel and other necessary expenses while so serving away from his or her place of residence as provided in sections 81-1174 to 81-1177.

Sec. 720. Section 71-5402, Reissue Revised Statutes of Nebraska, is amended to read:

71-5402. As used in the Nebraska Drug Product Selection Act, unless the context otherwise requires:

(1) Brand name shall mean the proprietary or trade name selected by the manufacturer and placed upon a drug and upon its container, label, or wrapping at the time of packaging;

(2) Generic name shall mean the official title of a drug or drug combination as determined by the United States Adopted Names and accepted by the Federal Food and Drug Administration of those drug products having exactly the same active chemical ingredients in exactly the same strength and quantity;

(3) Drug product select shall mean to dispense, without the duly licensed prescriber's express authorization, a chemically equivalent and bioequivalent drug product in place of the drug product ordered or prescribed;

(4) Chemically equivalent shall mean drug products that contain amounts of the identical therapeutically active ingredients in the identical strength, quantity, and dosage form and that meet present compendial standards;

(5) Bioequivalent shall mean drug products that:

(a) Are legally marketed under regulations promulgated by the federal Food and Drug Administration;

(b) Are the same dosage form of the identical active ingredients in the identical amounts as the drug product prescribed;

(c) Comply with compendial standards and are consistent from lot to lot with respect to (i) purity of ingredients, (ii) weight variation, (iii) uniformity of content, and (iv) stability; and

(d) For which the federal Food and Drug Administration has established bioequivalent standards or has determined that no bioequivalence problems exist;

(6) Pharmacist shall mean a pharmacist duly licensed in accordance with the Uniform Licensing Law;

(7) Medical practitioner shall mean a duly licensed physician, physician and surgeon, osteopathic physician, dentist, podiatrist, or veterinarian licensed in accordance with the Uniform Licensing Law; and

(8) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 721. Section 71-5404, Reissue Revised Statutes of Nebraska, is amended to read:

71-5404. (1) A pharmacist may drug product select a drug product pursuant to subsection (1) of section 71-5403 only when there will be a savings in cost to the purchaser, except that, if a pharmacy does not have in stock the prescribed drug product and the medical practitioner has not indicated N.D.P.S., and the only equivalent drug product in stock is the same or higher priced, the pharmacist, with the consent of the purchaser, may substitute the same or the higher priced drug product. Any savings resulting from drug product selection shall be reflected in the price charged the purchaser by the pharmacist.

(2) Whenever a drug product has been prescribed with the notation that no drug product selection is permitted for a patient who has a contract whereunder he or she is reimbursed for the cost of health care, directly or indirectly, the party that has contracted to reimburse the patient, directly or indirectly, shall make reimbursements on the basis of the brand name price and not on the basis of the generic or chemical equivalent or bioequivalent drug price, unless the contract specifically requires generic reimbursement under the Code of Federal Regulations.

(3) If the physician prescribes a drug by its generic name, the pharmacist shall, consistent with reasonable professional judgment, dispense an effective brand which is the lowest retail cost brand in stock.

(4) All prescriptions dispensed shall bear upon the label the name of the medication in the container unless the prescriber writes do not label or words of similar import on the prescription or so designates in an oral transmission of the prescription.

(5) Nothing in this section shall require a pharmacy, which prices prescriptions upon a professional fee basis, to charge less than its established minimum price for the filling of any prescription.

(6) Whenever a purchaser or patient presents a prescription that may be filled with a product selected by the pharmacist under the provisions of this section and the pharmacist chooses to make such selection, the pharmacist shall advise the purchaser or patient that he or she may indicate orally or in writing that he or she does not desire drug product selection and in that instance the prescription shall be filled as ordered. On all subsequent refills the drug product dispensed shall be distributed by the same company as the drug product dispensed on the original prescription.

(7) When a pharmacist chooses to exercise the provisions of this section when dispensing prescriptions for patients in long-term care facilities, the pharmacist shall advise either the patient, a representative of the patient, or a staff nurse of the facility that he or she has exercised the provisions of this section, and either the patient or his or her representative or a staff nurse of the facility may indicate orally or in writing that he or she does not desire drug product selection, and in that instance the prescription shall be filled as written.

(8) Nothing contained in this section shall be construed to prohibit any hospital licensed by the Department of Health Department of Health and Human Services Regulation and Licensure from establishing rules and regulations regarding the method by which medications are prescribed and dispensed for patients of such hospitals.

Sec. 722. Section 71-5502, Revised Statutes Supplement, 1994, is amended to read:

71-5502. For purposes of the Emergency Medical Technician-Paramedic Act, unless the context otherwise requires:

(1) Approved licensed physician shall mean an individual who:

(a) Is licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107 or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141;

(b) Is qualified and knowledgeable in the management of emergency care and services; and

(c) Is currently certified as an advanced cardiac life-support provider or instructor by a national organization which has procedures for certifying such providers or instructors, such as the American Heart Association;

(2) Approved training program shall mean a program for the education and training of an emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic which the board and department approve;

(3) Board shall mean the Board of Advanced Emergency Medical Care;

(4) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(5) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(6) Person shall mean an individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity and shall include any trustee, receiver, assignee, or other legal representative thereof but shall not include any agency of the United States Government;

(7) Physician shall mean an individual licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107 or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141;

(8) Approved physician surrogate shall mean a qualified, trained medical person, such as a registered nurse or physician assistant, designated by an approved licensed physician in writing to act as a substitute for the physician in directing the actions of an emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic and approved as such by the service program medical director and the board;

(9) Emergency medical technician-intermediate shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Holds a current certificate of competency to act as a certified ambulance attendant issued pursuant to section 71-5109;

(c) Is trained in an approved training program to administer intravenous solutions and perform endotracheal airway management and other authorized aids to ventilation, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(d) Has been examined and certified as an emergency medical technician-intermediate by the board and the department to provide advanced emergency care described in subsection (2) of section 71-5520;

(10) Emergency medical technician-paramedic shall mean a person who:

(a) Meets the requirements of subdivisions (9)(a) through (c) of this section;

(b) Is trained in an approved training program to provide advanced cardiac life support, to administer drugs under written or oral authorization of an approved licensed physician, and to perform any of the procedures described in subsection (3) of section 71-5520, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(c) Has been examined and certified as an emergency medical technician-paramedic by the board and the department to provide advanced emergency medical care described in subsection (3) of section 71-5520;

(11) Emergency medical technician-D shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Holds a current certificate of competency to act as a certified ambulance attendant issued pursuant to section 71-5109;

(c) Is trained in an approved training program to manually determine the need for and administer cardiac electrical countershock in the treatment of asystole, ventricular fibrillation, or ventricular tachycardia with collapse, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(d) Has been examined and certified as an emergency medical technician-D by the board and the department to provide advanced emergency medical care described in subsection (1) of section 71-5520;

(12) Trainee shall mean any person who is currently enrolled in an approved training program for emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic;

(13) Field supervisor shall mean any emergency medical technician-paramedic, emergency medical technician-intermediate, registered nurse, physician assistant, or approved licensed physician, employed by or acting as an agent of an approved training program, who supervises trainees in an approved training program and who has been certified as a field supervisor by the board and the department by virtue of having met all requirements established by the board for such certification;

(14) Approved service program shall mean an organized emergency medical response or transportation unit, or both, which utilizes the services of persons certified as emergency medical technicians-D, emergency medical technicians-intermediate, or emergency medical technician-paramedics and which has been approved as such by the board and the department. Approved service program shall include military emergency services operating in cooperation with surrounding communities;

(15) Service program medical director shall mean an approved licensed physician who shall be responsible for the overall medical control of an approved service program;

(16) Supervising physician shall mean an approved licensed physician designated by the service program medical director to supervise advanced emergency medical care technicians by means of radio, telephone, and other approved communications systems whenever the technicians are providing prehospital care;

(17) Technician shall mean a person who renders advanced emergency care, rescue, and resuscitation services and who holds a current certificate of competency to act as a certified ambulance attendant issued pursuant to section 71-5109; and

(18) Training program medical director shall mean an approved licensed physician appointed by the governing body of the accredited community college, college, or university administering the approved training program who shall be responsible for the overall medical direction of the approved training program.

Sec. 723. Section 71-5504, Revised Statutes Supplement, 1994, is amended to read:

71-5504. The board shall be composed of the Director of Health Director of Regulation and Licensure or his or her designee and twelve members appointed by the State Board of Health, six of whom shall be approved licensed physicians experienced in advanced emergency medical care with no more than three from any one of the emergency medical services regions of the state, one of whom shall be a registered nurse experienced in advanced emergency medical care, one of whom shall be a physician assistant experienced in advanced emergency medical care, two of whom shall be consumers, one of whom shall be an emergency medical technician-intermediate or an emergency medical technician-paramedic currently certified in Nebraska, and one of whom shall be the supervisor of an approved service program.

Sec. 724. Section 71-5517, Reissue Revised Statutes of Nebraska, is amended to read:

71-5517. (1) An application for a certificate or the certificate of any emergency medical technician-D, emergency medical technician-intermediate, emergency medical technician-paramedic, 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 Director of Regulation and Licensure 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 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. Disciplinary actions and proceedings shall be carried out as specified in sections 71-147 to 71-161.19.

(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



## Administrative Procedure Act.

Sec. 725. Section 71-5647, Revised Statutes Supplement, 1994, is amended to read:

71-5647. The Office of Rural Health is hereby created within the Department of Health Department of Health and Human Services Regulation and Licensure. The office shall have the following powers and duties:

(1) To assist rural residents in obtaining high quality health care which includes the following:

(a) Assist in the recruitment and retention of health care professionals to rural areas, including specifically physicians and nurses;

(b) Assist rural communities in maintaining the viability of hospital services whenever feasible or, for communities in transition, in developing alternative systems to provide equivalent quality care to their residents;

(c) Assist rural communities in planning to meet changes needed due to the changing rural economy and demographics or new technology;

(d) Assist in the development of health care networks or cooperative ventures among rural communities or health care providers;

(e) Assist in promoting or developing demonstration projects to identify and establish alternative health care systems; and

(f) Assist rural communities in developing and identifying leaders and leadership skills among their residents to enable such communities to work toward appropriate and cost-effective solutions to the health care issues that confront them;

(2) To develop a comprehensive rural health policy to serve as a guide for the development of programs of the department aimed at improving health care in rural Nebraska and a rural health action plan to guide implementation of the policy;

(3) To establish liaison with other state agency efforts in the area of rural development and human services delivery to ensure that the programs of the office are appropriately coordinated with these efforts and to encourage use of the comprehensive rural health policy by other agencies as a guide to their plans and programs affecting rural health;

(4) To develop and maintain an appropriate data system to identify present and potential rural health issues and to evaluate the effectiveness of programs and demonstration projects;

(5) To encourage and facilitate increased public awareness of issues affecting rural health care;

(6) To carry out its duties under the Rural Health Systems and Professional Incentive Act;

(7) To carry out the duties required by section 71-5206.01; and

(8) To carry out related duties as directed by the Director of Health Director of Regulation and Licensure.

Sec. 726. Section 71-5649, Revised Statutes Supplement, 1994, is amended to read:

71-5649. The Legislature shall appropriate sufficient funds to the Department of Health Department of Health and Human Services Regulation and Licensure to enable the Office of Rural Health to carry out its duties pursuant to section 71-5647.

Sec. 727. Section 71-5653, Revised Statutes Supplement, 1994, is amended to read:

71-5653. For purposes of the Rural Health Systems and Professional Incentive Act:

(1) Commission shall mean the Nebraska Rural Health Advisory Commission;

(2) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(3) Full-time practice shall mean a minimum of forty hours per week;

(4) Health care shall mean both somatic and mental health care services;

(5) Office shall mean the Office of Rural Health;

(6) Primary care shall mean family practice, general practice, general internal medicine, general pediatrics, general surgery, and obstetrics and gynecology;

(7) Qualified educational debts shall mean government and commercial loans obtained by students for postsecondary education tuition, other educational expenses, and reasonable living expenses, as determined by the department, but shall not include loans received under the act or the Nebraska Medical Student Assistance Act; and

(8) Rural shall mean located within any county in Nebraska having a population of less than fifteen thousand inhabitants and not included within a metropolitan statistical area as defined by the United States Department of

Commerce, Bureau of the Census.

Sec. 728. Section 71-5654, Revised Statutes Supplement, 1994, is amended to read:

71-5654. The Nebraska Rural Health Advisory Commission is hereby created as the direct and only successor to the Commission on Rural Health Manpower. All members of the Commission on Rural Health Manpower serving on September 6, 1991, shall serve as members of the Nebraska Rural Health Advisory Commission for a period of time equal to the remainder of their terms on the Commission on Rural Health Manpower. Thereafter, the Nebraska Rural Health Advisory Commission shall consist of twelve members as follows:

(1) The ~~Director of Health~~ Director of Regulation and Licensure or his or her designee and the Director of Medical Services of the ~~Department of Public Institutions~~ Department of Health and Human Services or his or her designee; and

(2) Ten members to be appointed by the Governor with the advice and consent of the Legislature as follows:

(a) One representative of each medical school located in the state involved in training family physicians and one physician in family practice residency training; and

(b) From rural areas one physician, one consumer representative, one hospital administrator, one nursing home administrator, one nurse, one physician assistant, and one mental health professional.

Members shall serve for terms of three years. When a vacancy occurs, appointment to fill the vacancy shall be made for the balance of the term. All appointed members shall be citizens and residents of Nebraska. The appointed membership of the commission shall, to the extent possible, represent the three congressional districts equally.

Sec. 729. Section 71-5655, Revised Statutes Supplement, 1994, is amended to read:

71-5655. The purpose of the commission shall be to advise the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure, the Legislature, the Governor, the University of Nebraska, and the citizens of Nebraska regarding all aspects of rural health care and to advise the office regarding the administration of the Rural Health Systems and Professional Incentive Act.

Sec. 730. Section 71-5656, Revised Statutes Supplement, 1994, is amended to read:

71-5656. The commission shall annually elect from among its members a chairperson and a vice-chairperson. The ~~Director of Health~~ Director of Regulation and Licensure or his or her designee shall serve as permanent secretary to the commission, with assistance from the staff of the office.

Sec. 731. Section 71-5678, Revised Statutes Supplement, 1994, is amended to read:

71-5678. (1) The University of Nebraska Medical Center, the Office of Rural Health, and the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure shall develop, implement, and coordinate a program by which communities or groups of communities within designated professional practice areas provide repayment agreements for students receiving loans under the Rural Health Opportunities Loan Act. Such communities shall sign agreements with the Board of Regents of the University of Nebraska to assume the student's loan repayment responsibility contingent upon continued practice in the community or communities by the loan recipient. Whenever possible, an elected official of the community or communities should be a party to the agreement.

(2) If a sponsoring community is found, the community or communities, the Board of Regents of the University of Nebraska, and the student shall execute an agreement which states the terms of employment and compensation and states that the community or communities shall assume the loans of the student provided by the Rural Health Opportunities Loan Act, shall repay the loans with interest at a rate of one point below the prime interest rate, and shall retire one year's worth of loan debt for each year of full-time practice in the community or communities. If the practice is less than full time, the loan shall be retired accordingly. Payments by the community or communities shall be made directly to the Rural Health Opportunities Loan Pool Fund in quarterly payments. The term of the agreement shall be equal to the number of years of study for which loans were received if the practice is full time or extended to a duration which is the equivalent if the practice is less than full time.

Sec. 732. Section 71-5707, Reissue Revised Statutes of Nebraska, is amended to read:

71-5707. No person shall smoke in a public place or at a public meeting except in designated smoking areas. This prohibition does not apply

in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of such room or hall. With respect to factories, warehouses, and similar places of work not usually frequented by the general public the Department of Health Department of Health and Human Services Regulation and Licensure shall, in consultation with the Department of Labor, establish rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees.

Sec. 733. Section 71-5710, Reissue Revised Statutes of Nebraska, is amended to read:

71-5710. The Department of Health Department of Health and Human Services Regulation and Licensure shall, not later than January 1, 1980, adopt and promulgate rules and regulations necessary and reasonable to implement the provisions of sections 71-5701 to 71-5713. The Department of Health Department of Health and Human Services Regulation and Licensure shall consult with interested persons and professional organizations before promulgating such rules and regulations.

Sec. 734. Section 71-5711, Reissue Revised Statutes of Nebraska, is amended to read:

71-5711. The Department of Health Department of Health and Human Services Regulation and Licensure may, upon request, waive the provisions of sections 71-5701 to 71-5713 if it determines there are compelling reasons to do so and a waiver will not significantly affect the health and comfort of nonsmokers.

Sec. 735. Section 71-5713, Reissue Revised Statutes of Nebraska, is amended to read:

71-5713. The Department of Health Department of Health and Human Services Regulation and Licensure, a local board of health, or any affected party may institute an action in any court with jurisdiction to enjoin any violation of section 71-5707.

Sec. 736. Section 71-5808, Reissue Revised Statutes of Nebraska, is amended to read:

71-5808. Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 737. Section 71-5825, Reissue Revised Statutes of Nebraska, is amended to read:

71-5825. State health planning and development agency shall mean the single state health planning and development agency designated under Public Law 93-641, 42 U.S.C. 300k et seq., and the Department of Health Department of Health and Human Services Regulation and Licensure is hereby designated as such agency.

Sec. 738. Section 71-5902, Reissue Revised Statutes of Nebraska, is amended to read:

71-5902. Boarding homes shall be subject to inspection and licensure by the Department of Health Department of Health and Human Services Regulation and Licensure. The Department of Health Department of Health and Human Services Regulation and Licensure shall adopt, promulgate, and enforce, by rules and regulations, standards governing sanitary conditions and safety in boarding homes and building and construction codes for boarding homes that are applicable to and consistent with reasonable community standards for multiple-family dwellings. Prior to licensure by the Department of Health Department of Health and Human Services Regulation and Licensure, a boarding home must be inspected and approved as to fire safety by the State Fire Marshal or delegated qualified local fire prevention personnel pursuant to the provisions of section 81-502, in compliance with fire safety standards and rules and regulations adopted, promulgated, and enforced by the State Fire Marshal.

Sec. 739. Section 71-5903, Revised Statutes Supplement, 1994, is amended to read:

71-5903. Applicants for license shall file applications under oath with the Department of Health Department of Health and Human Services Regulation and Licensure upon forms prescribed and shall pay a license fee of twenty-five dollars as a base fee and in addition thereto, a fee of one dollar for each bed available for guests thereof, except that the total fee for beds available shall not exceed one hundred dollars. Such fee shall be remitted to the State Treasurer for credit to the General Fund, or if the license is denied, that part of the fees paid for beds available shall be returned to the applicant. Applications shall be signed (1) by the owner, if an individual or partnership, (2) by two of its members, if a limited liability company, (3) by two of its officers, if a corporation, or (4) by the head of the governmental department having jurisdiction over it, if a governmental unit. Applications

shall set forth the full name and address of the boarding home for which license is sought, and of the owner in case of different address, the names of the persons in control thereof, and such additional information as the Department of Health Department of Health and Human Services Regulation and Licensure may require, including affirmative evidence of ability to comply with such reasonable standards, rules, and regulations as may be lawfully prescribed hereunder.

Sec. 740. Section 71-5904, Reissue Revised Statutes of Nebraska, is amended to read:

71-5904. Licenses issued under sections 71-5901 to 71-5909 shall expire one year after date of issuance, or upon such uniform dates annually as the Department of Health Department of Health and Human Services Regulation and Licensure may prescribe by regulation. Licenses shall be issued only for the premises and persons named in the application, shall not be transferable or assignable, and shall be posted in a conspicuous place on the licensed premises.

Sec. 741. Section 71-5905, Reissue Revised Statutes of Nebraska, is amended to read:

71-5905. The Department of Health Department of Health and Human Services Regulation and Licensure shall make or cause to be made such inspections as it may prescribe by regulation. The Department of Health Department of Health and Human Services Regulation and Licensure may prescribe that any licensee or prospective applicant desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall, before commencing such alteration, addition, or new construction, submit plans and specifications therefor to the Department of Health Department of Health and Human Services Regulation and Licensure for inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

Sec. 742. Section 71-5906, Revised Statutes Supplement, 1994, is amended to read:

71-5906. The Department of Health Department of Health and Human Services Regulation and Licensure shall issue licenses for the operation of boarding homes subject to sections 71-5901 to 71-5909 which are found to comply with such sections and the rules and regulations lawfully promulgated by the department pursuant to such sections. The department shall deny, suspend, or revoke licenses on any of the following grounds:

- (1) Violation of any of the provisions of sections 71-5901 to 71-5909 or the rules and regulations lawfully promulgated pursuant thereto;
- (2) Permitting, aiding, or abetting the commission of any unlawful act;
- (3) Conduct or practices detrimental to the health or safety of patients and employees of the boarding home, except that this subdivision shall not be construed to have any reference to healing practices authorized by law;
- (4) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the boarding home for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations promulgated by the Department on Aging Department of Health and Human Services; or
- (5) Discrimination or retaliation against a resident or an employee of a boarding home who has presented a grievance or information to the office of the state long-term care ombudsman.

If the Department of Health Department of Health and Human Services Regulation and Licensure determines to deny, suspend, or revoke a license; it shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, or revocation shall become final thirty days after mailing of the notice unless the applicant or licensee, within such thirty-day period, gives written notice of desire for hearing. Thereupon the applicant or licensee shall be given a fair hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence the determination involved shall be affirmed or set aside, and 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 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 under section 71-5907. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and

regulations.

Sec. 743. Section 71-5907, Reissue Revised Statutes of Nebraska, is amended to read:

71-5907. Any applicant or licensee who is dissatisfied with the decision of the Department of Health Department of Health and Human Services Regulation and Licensure 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.

Sec. 744. Section 71-5909, Revised Statutes Supplement, 1994, is amended to read:

71-5909. The Department of Health Department of Health and Human Services Regulation and Licensure may, in accordance with the laws of the state governing injunctions and other process, maintain an action in the name of the state against any person, partnership, limited liability company, association, or corporation or against any state, county, or local governmental unit, or any division, department, board, or agency thereof, for establishing, conducting, managing, or operating any boarding home within the meaning of section 71-5901 without first having a license therefor as herein provided. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, conduct, manage, or operate a boarding home without having a license to do so without averring any further or more particular facts concerning the same.

Sec. 745. Section 71-6010, Reissue Revised Statutes of Nebraska, is amended to read:

71-6010. Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 746. Section 71-6011, Reissue Revised Statutes of Nebraska, is amended to read:

71-6011. Director shall mean the Director of Health Director of Regulation and Licensure.

Sec. 747. Section 71-6019, Revised Statutes Supplement, 1994, is amended to read:

71-6019. Any employee, representative, or agent of the Department of Public Institutions Department of Health and Human Services, the office of the state long-term care ombudsman, a law enforcement agency, or the local county attorney shall be permitted access at any hour to any resident of any nursing home. Friends and relatives of a resident shall have access during normal visiting and business hours of the facility. Representatives of community legal services programs, volunteers, and members of community organizations shall have access, after making arrangements with proper personnel of the home, during regular visiting and business hours if the purpose of such access is to:

- (1) Visit, talk with, and make personal, social, and legal services available to all residents;
- (2) Inform residents of their rights and entitlements and their corresponding obligations under federal and state laws by means of educational materials and discussions in groups and with individual residents;
- (3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or
- (4) Engage in other methods of asserting, advising, and representing residents so as to extend to them full enjoyment of their rights.

Sec. 748. Section 71-6021, Revised Statutes Supplement, 1994, is amended to read:

71-6021. (1) Notwithstanding the provisions of sections 71-6019 and 71-6020, the administrator of a nursing home may refuse access to the nursing home to any person if the presence of such person in the nursing home would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the nursing home or if the person seeks access to the nursing home for commercial purposes. Any person refused access to a nursing home may, within thirty days of such refusal, request a hearing by the department. The wrongful refusal of a nursing home to grant access to any person as required in sections 71-6019 and 71-6020 shall constitute a violation of the Nebraska Nursing Home Act. A nursing home may appeal any citation issued pursuant to this section in the manner provided in sections 71-6029 to 71-6031.

(2) Nothing in sections 71-6019 to 71-6021 shall be construed to prevent (a) an employee of the Department of Health or Department of Social Services Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, or the Department of Health and Human

Services Finance and Support, acting in his or her official capacity, from entering a nursing home for any inspection authorized by the act or any rule or regulation adopted and promulgated pursuant thereto or (b) a state long-term care ombudsman or an ombudsman advocate, acting in his or her official capacity, from entering a nursing home to conduct an investigation authorized by any rules and regulations promulgated by the Department on Aging Department of Health and Human Services.

Sec. 749. Section 71-6038, Revised Statutes Supplement, 1994, is amended to read:

71-6038. For purposes of sections 71-6038 to 71-6042, unless the context otherwise requires:

(1) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(2) Care staff member shall mean a nursing assistant who meets the following qualifications: (a) Has attained the age of eighteen; (b)(i) prior to October 1, 1990, for nursing assistants at all nursing homes, and on and after such date for nursing assistants at intermediate care facilities for the mentally retarded, has completed training approved by the department of at least ninety hours consisting of a basic resident care course of no fewer than twenty hours and an advanced course consisting of no fewer than forty hours in pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator plus at least thirty hours of anatomy and physiology and advanced therapeutics if not included in the basic resident care course or (ii) on or after October 1, 1990, for nursing assistants at all nursing homes other than intermediate care facilities for the mentally retarded (A) has completed training approved by the department of at least one hundred fifteen hours consisting of a basic resident care course of no fewer than seventy-five hours and an advanced course consisting of no fewer than forty hours in pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator or (B) has passed a written or oral examination and competency evaluation deemed to meet the federal seventy-five-hour-training requirement for a nurse aide and successfully completed an advanced course consisting of at least forty hours of pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator; (c) has received a grade of eighty percent or higher in an advanced course test administered by the department, has received a grade of eighty percent or higher in a non-facility-based program approved by the department, or has successfully completed a course in another state which has been approved by the department and has received a grade of eighty percent or higher in an advanced course test administered by the department; and (d) has been approved by the nursing home administrator and the department to administer oral and external medication and oxygen as provided in section 71-6501. An individual who fails the advanced course test administered by the department three times in succession shall retake the advanced course consisting of no fewer than forty hours in pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator before the individual shall be permitted to retake the test. An individual who has been approved by the department as a care staff member shall be retested every three years on medication administration and oxygen administration by means of an oxygen concentrator and shall receive a grade of eighty percent or higher on such test. An individual who has been approved by the department as a care staff member who fails the test on medication administration and oxygen administration by oxygen concentrator three times in succession shall retake the advanced care course of no fewer than forty hours in pharmacology, medication administration, and oxygen administration by means of an oxygen concentrator before the individual shall be allowed to take the test. An individual who has not worked for a period of three years as an approved care staff member shall complete an approved forty-hour pharmacology and medication administration course and receive a grade of eighty percent or higher on an advanced course test administered by the department. To maintain the status of an approved care staff member, such member shall attend twelve hours of inservice programs with topics dealing in medications or medication administration and oxygen administration by means of an oxygen concentrator every three years;

(3) Nursing assistant shall mean any person, other than a licensed registered or practical nurse, employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents;

(4) External medication shall mean a drug that is to be applied topically to the skin, by drop to the ears, eyes, or nose, or by a rectal suppository; and

(5) Oral medication shall mean a drug that is to be taken by the

mouth and shall include sublingual and buccal routes of administration.

Sec. 750. Section 71-6040, Reissue Revised Statutes of Nebraska, is amended to read:

71-6040. The ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure shall approve all courses, lectures, seminars, course materials, or other instructional programs used to meet the requirements of sections 71-6038 to 71-6042.

Sec. 751. Section 71-6041, Revised Statutes Supplement, 1994, is amended to read:

71-6041. To protect the health, safety, and welfare of nursing home residents and the public, the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure shall adopt and promulgate such rules and regulations as are necessary for the effective administration of sections 71-6038 to 71-6042. Such rules and regulations shall be consistent with federal requirements developed by the United States Department of Health and Human Services.

Sec. 752. Section 71-6043, Reissue Revised Statutes of Nebraska, is amended to read:

71-6043. As used in sections 71-2024 and 71-6043 to 71-6052, unless the context otherwise requires:

(1) Council shall mean the Nursing Home Advisory Council as established by sections 71-2024 and 71-6043 to 71-6052;

(2) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure and the section of Hospitals and Medical Facilities thereof; and

(3) Nursing home shall mean a home for the aged or infirm as provided in sections 71-2017 to 71-2029.

Sec. 753. Section 71-6045, Reissue Revised Statutes of Nebraska, is amended to read:

71-6045. The council shall consist of ~~fifteen~~ sixteen members appointed by the Governor as follows:

(1) One member shall be a licensed registered nurse in the State of Nebraska;

(2) One member shall be a licensed physician and surgeon in the State of Nebraska;

(3) One member shall be a licensed dentist in the State of Nebraska;

(4) One member shall be a registered pharmacist in the State of Nebraska;

(5) One member shall be a representative of the ~~Department on Aging~~ Department of Health and Human Services with interest in or responsibilities for aging programs;

(6) One member shall be a representative of the ~~Department of Social Services~~ Department of Health and Human Services Regulation and Licensure;

(7) ~~One member shall be a representative of the Department of Health and Human Services Finance and Support~~;

(8) One member shall be representative of an agency of state or local government, other than the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure, with interests in or responsibilities for nursing homes or programs related thereto;

~~(8)~~ (9) Four members shall be laypersons representative of the public;

~~(9)~~ (10) Two members shall be administrators or owners of proprietary nursing homes; and

~~(10)~~ (11) Two members shall be administrators or owners of voluntary nursing homes.

Sec. 754. Section 71-6053, Revised Statutes Supplement, 1994, is amended to read:

71-6053. For the purpose of sections 71-6053 to 71-6068, unless the context otherwise requires:

(1) Accredited institution shall mean an institution of postsecondary education approved by the board;

(2) Active license shall mean a license issued by the board to an administrator who meets the continuing education requirements of section 71-6060 and who submits the fee required by section 71-6061;

(3) Administrator or nursing home administrator shall mean any individual who meets the education and training requirements of section 71-6054 and is responsible for planning, organizing, directing, and controlling the operation of a home for the aged or infirm or nursing home or who in fact performs such functions, whether or not such functions are shared by one or more other persons. Notwithstanding this subdivision or any other provision of law, the administrator of an intermediate care facility for the mentally retarded may be either a licensed nursing home administrator or a

qualified mental retardation professional;

(4) Administrator-in-training shall mean a person who is undergoing training to become a nursing home administrator and is supervised in a home for the aged or infirm or nursing home by a certified preceptor;

(5) Board shall mean the Board of Examiners in Nursing Home Administration;

(6) Certified preceptor shall mean a person who is currently licensed by the State of Nebraska as a nursing home administrator, has three years of experience as a nursing home administrator, is currently practicing in a home for the aged or infirm or a nursing home, and is approved by the board to supervise an administrator-in-training;

(7) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(8) Home for the aged or infirm or nursing home shall mean any institution or facility licensed as such by the department pursuant to sections 71-2017 to 71-2029, whether proprietary or nonprofit, including, but not limited to, homes for the aged or infirm owned or administered by the federal or state government or an agency or political subdivision thereof;

(9) Internship shall mean that aspect of the educational program of the associate degree in long-term care administration which allows for practical experience in a home for the aged or infirm or nursing home and occurs under the supervision of a certified preceptor; and

(10) License shall mean permission to engage in nursing home administration which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisites and qualifications that allow them to perform nursing home administration tasks and use the title nursing home administrator.

Sec. 755. Section 71-6065, Revised Statutes Supplement, 1994, is amended to read:

71-6065. (1) There is hereby created, under the supervision of the department, the Board of Examiners in Nursing Home Administration which shall consist of the Director of Health Director of Regulation and Licensure or his or her designated representative, the Director of Social Services Director of Health and Human Services or his or her designated representative, the Director on Aging Director of Finance and Support or his or her designated representative, and the following members appointed by the State Board of Health: (a) Two members who hold active licenses and are currently employed in the management, operation, or ownership of proprietary homes for the aged or infirm or nursing homes that serve the aged or infirm in Nebraska; (b) two members who hold active licenses and are currently employed in the management or operation of a nonprofit home for the aged or infirm or nursing home or hospital caring for chronically ill or infirm, aged patients; (c) one member who is a member of the faculty of a college or university located in the state who is actively engaged in a teaching program relating to business administration, social work, gerontology, or some other aspect of the administration of health care facilities; (d) one member who is a licensed physician and surgeon with a demonstrated interest in long-term care; (e) one member who is a licensed registered professional nurse; and (f) two members who are laypersons, at least the age of majority, residents of this state for at least five years preceding appointment, and representative of consumer viewpoints. The members of the board shall serve as members of such board until the expiration of their respective terms or until their successors have been appointed and qualified. Each appointed member who is an administrator shall be licensed pursuant to sections 71-6053 to 71-6068.

(2) The appointed members shall be appointed for terms of three years, and the terms shall be staggered so that the terms of three appointed members of the board expire each year. The term of each member shall commence on the first day of December following the expiration of the term of the member whom such person succeeds. A vacancy in any appointive position on the board shall be filled for the unexpired portion of the term by appointment by the State Board of Health in the same manner as original appointments are made. Appointed members shall serve until their successors are appointed and qualified.

(3) The State Board of Health shall have power to remove from office at any time any member of the board after a public hearing pursuant to the Administrative Procedure Act for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a license may be suspended or revoked, or for a lack of licensure.

(4) The department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board



and which establish procedures in the case such a conflict arises.

Sec. 756. Section 71-6068, Revised Statutes Supplement, 1994, is amended to read:

71-6068. Whenever the Department of Health Department of Health and Human Services Regulation and Licensure conducts an investigation or hearing regarding loss of medicaid or medicare certification of a nursing home or suspension or revocation of the license of a nursing home, the board may hold a hearing to determine whether there is cause to suspend, limit, revoke, or deny the license of a nursing home administrator.

Sec. 757. Section 71-6103, Revised Statutes Supplement, 1994, is amended to read:

71-6103. As used in the Occupational Therapy Practice Act, unless the context otherwise requires:

(1) Board shall mean the Board of Occupational Therapy Practice established by section 71-6115;

(2) Occupational therapy shall mean the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. Occupational therapy shall encompass evaluation, treatment, and consultation. Occupational therapy may include teaching daily living skills, developing perceptual-motor skills and sensory integrative functioning, developing prevocational capacities, designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment, using specifically designed therapeutic media and exercises to enhance functional performance, administering and interpreting tests such as manual muscle and range of motion, and adapting environments for the handicapped;

(3) Occupational therapist shall mean a person licensed to practice occupational therapy pursuant to the Occupational Therapy Practice Act and whose license is in good standing;

(4) Occupational therapy assistant shall mean a person licensed to assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist and whose license is in good standing;

(5) Occupational therapy aide shall mean a person who assists in the practice of occupational therapy, who works under the supervision of an occupational therapist, and whose activities require an understanding of occupational therapy but shall not require professional or advanced training or licensure;

(6) Person shall mean any individual, partnership, limited liability company, unincorporated organization, or corporate body;

(7) Association shall mean a recognized national or state association for occupational therapy; and

(8) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 758. Section 71-6208, Reissue Revised Statutes of Nebraska, is amended to read:

71-6208. Director shall mean the Director of Health Director of Regulation and Licensure.

Sec. 759. Section 71-6221, Reissue Revised Statutes of Nebraska, is amended to read:

71-6221. (1) After January 1, 1985, a health profession shall be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest;

(c) The public needs, and can reasonably be expected to benefit from, assurance of initial and continuing professional ability by the state; and

(d) The public cannot be effectively protected by other means in a more cost-effective manner.

(2) If it is determined that practitioners of a health profession not currently regulated are prohibited from the full practice of their profession in Nebraska, then the following criteria shall be used to determine whether regulation is necessary:

(a) Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon

tenuous argument;

(b) Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public;

(c) Creation of a separate regulated profession would benefit the health, safety, or welfare of the public; and

(d) The public cannot be effectively protected by other means in a more cost-effective manner.

(3) After March 18, 1988, the scope of practice of a regulated health profession shall be changed only when:

(a) The present scope of practice or limitations on the scope of practice create a situation of harm or danger to the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public;

(c) Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public; and

(d) The public cannot be effectively protected by other means in a more cost-effective manner.

(4) The Department of Health Department of Health and Human Services Regulation and Licensure shall, by rule and regulation, establish standards for the application of each criterion which shall be used by the review bodies in recommending whether proposals for credentialing or change in scope of practice meet the criteria.

Sec. 760. Section 71-6228, Revised Statutes Supplement, 1995, is amended to read:

71-6228. The Nebraska Regulation of Health Professions Fund is hereby created. All money in the fund shall be used exclusively for the operation and administration of the Nebraska Regulation of Health Professions Act. The State Treasurer shall credit to the fund five percent of all fees collected on or after July 1, 1984, and prior to March 18, 1988, pursuant to the licensing or regulation of regulated health professions and remitted to the State Treasurer by the Department of Health Department of Health and Human Services Regulation and Licensure or any board or board of examiners of any regulated health profession. On and after March 18, 1988, the director shall annually determine the percent of all fees collected during that year pursuant to the licensing or regulation of regulated health professions to be credited to the fund, except that such percentage shall not be greater than five percent. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 761. Section 71-6301, Revised Statutes Supplement, 1995, is amended to read:

71-6301. For purposes of the Asbestos Control Act, unless the context otherwise requires:

(1) Asbestos means asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite;

(2) Asbestos encapsulation project means activities which include the coating of asbestos-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing the continued release of asbestos fibers from the material into the air. Such project does not include the repainting of a previously painted nonfriable asbestos-containing surface which is not damaged primarily for improving the appearance of such surface;

(3) Asbestos enclosure project means activities which physically isolate friable asbestos and which control and contain fibers released from asbestos-containing material by constructing a permanent airtight barrier between the asbestos-containing material and the occupied building space;

(4) Asbestos occupation means an inspector, management planner, project designer, project monitor, supervisor, or worker;

(5) Asbestos project means an asbestos enclosure project, an asbestos encapsulation project, an asbestos removal project, an asbestos-related demolition project, or an asbestos-related dismantling project but does not include (a) any activities which affect three square feet or less or three linear feet or less of asbestos-containing material on or in a structure or equipment or any appurtenances thereto or (b) any activities physically performed by a homeowner, a member of the homeowner's family, or an unpaid volunteer on or in the homeowner's residential property of four units or less;

(6) Asbestos removal project means activities which include the physical removal of friable asbestos-containing material from the surface of a structure or from equipment which is intended to remain in place after the

removal. Such project also includes the physical removal of asbestos from a structure or equipment after such structure or equipment has been removed as part of an asbestos-related dismantling project;

(7) Asbestos-related demolition project means activities which include the razing of all or a portion of a structure which contains friable asbestos-containing materials or other asbestos-containing materials which may become friable when such materials are cut, crushed, ground, abraded, or pulverized;

(8) Asbestos-related dismantling project means activities which include the disassembly, handling, and moving of the components of any structure or equipment which has been coated with asbestos-containing material without first removing such material from the structure or from the equipment;

(9) Business entity means a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern involved in an asbestos project except an entity solely involved as a management planner or project designer;

(10) Certificate means an authorization issued by the department permitting an individual person to work in an asbestos occupation;

(11) Demolition means the wrecking, razing, or removal of any structure or load-supporting structural item of any structure, including any related material handling operations, and includes the intentional burning of any structure;

(12) Department means the Department of Health Department of Health and Human Services Regulation and Licensure;

(13) Director means the Director of Health Director of Regulation and Licensure or his or her designee;

(14) Enclosure means the construction of an airtight, impermeable, permanent barrier around asbestos-containing material to control the release of asbestos fibers into the air;

(15) Friable asbestos means asbestos in a form which can be crumbled, pulverized, or reduced to powder by hand pressure;

(16) Inspector means an individual who is certified by the department to identify and assess the condition of asbestos-containing material;

(17) Instructor means an individual who is approved by the department to teach an asbestos-related training course;

(18) License means an authorization issued by the department permitting a business entity to engage in an asbestos project;

(19) Management planner means an individual who is certified by the department to assess the hazard of materials containing asbestos, to determine the appropriate response actions, and to write management plans;

(20) Project designer means an individual who is certified by the department to formulate plans and write specifications for conducting asbestos projects;

(21) Project monitor means an individual who is certified by the department to observe abatement activities performed by contractors, to represent the building owner to ensure work is completed according to specifications and in compliance with statutes and regulations, and to perform air monitoring to determine final clearance;

(22) Project review means review of a licensed business entity's proposed asbestos project;

(23) Renovation means the altering of a structure, one or more structural items, or one or more equipment items in any way, including any asbestos project performed on a structure, structural item, or equipment item;

(24) Supervisor means an individual who is certified by the department to supervise and direct an asbestos project in accordance with the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to such act; and

(25) Worker means an individual who is certified by the department to clean, handle, repair, remove, encapsulate, haul, dispose of, or otherwise work with asbestos material in a nonsupervisory capacity.

Sec. 762. Section 71-6303, Revised Statutes Supplement, 1995, is amended to read:

71-6303. (1) The department shall administer the Asbestos Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out the act. The department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in the state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For certification or recertification of a worker, not less than thirty-five dollars or more than one hundred dollars;

(c) For certification or recertification of a supervisor, not less than seventy dollars or more than two hundred dollars;

(d) For certification or recertification of an inspector, not less than seventy dollars or more than two hundred dollars;

(e) For certification or recertification of a management planner, not less than one hundred dollars or more than three hundred dollars, which fee shall include certification or recertification as an inspector;

(f) For certification or recertification of a project designer, not less than seventy dollars or more than two hundred dollars;

(g) For certification or recertification of a project monitor, not less than one hundred dollars or more than three hundred dollars;

(h) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

(i) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

(j) For approval of an initial training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(k) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(l) For an onsite inspection of an asbestos project other than an initial inspection, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual asbestos project is in progress; and

(m) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

All fees shall be based on the costs of administering the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection of each licensed business entity's procedures for performing asbestos projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

Sec. 763. Section 71-6319, Revised Statutes Supplement, 1994, is amended to read:

71-6319. For purposes of the Environmental Lead Hazard Control Act:

(1) Business entity shall mean a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern which performs a lead abatement project except an entity solely involved as a project designer;

(2) Certificate shall mean an authorization issued by the department

permitting an individual person to work in a lead occupation;

(3) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(4) Director shall mean the Director of Health Director of Regulation and Licensure or his or her designee;

(5) Enclosure shall mean the construction of an airtight, impermeable, permanent barrier around lead-contaminated material to control further contamination from lead;

(6) Industrial facility shall mean a business entity involved in a manufacturing process which produces a product;

(7) Lead abatement shall mean removal, replacement, or encapsulation of deteriorated paint, bare soil, dust, drinking water, or other lead-contaminated material that is or may become readily accessible during a lead abatement project and pose an immediate threat of actual lead exposure to people;

(8) Lead abatement contractor shall mean any person hired by a property owner or resident to perform a lead abatement project;

(9) Lead abatement project shall mean a lead encapsulation project, a lead removal project, a lead-related demolition project, or a lead-related dismantling project but shall not include the activities listed in section 71-6332;

(10) Lead encapsulation shall mean covering, sealing, painting, resurfacing to make smooth before repainting, or containment of a source of lead;

(11) Lead encapsulation project shall mean activities which include the coating of lead-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing continued exposure to lead from the material but shall not include the repainting of a previously painted lead-contaminated surface which is not damaged primarily for improving the appearance of such surface;

(12) Lead inspector shall mean an individual who is certified by the department to identify and assess the condition of lead-containing material;

(13) Lead occupation shall mean a lead inspector, project designer, supervisor, or worker;

(14) Lead removal project shall mean the physical removal or enclosure of lead-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal or enclosure and shall include the physical removal of lead from a structure or equipment after such structure or equipment has been removed as part of a lead-related dismantling project;

(15) Lead-related demolition project shall mean the razing of all or a portion of a structure which contains lead-containing materials;

(16) Lead-related dismantling project shall mean the disassembly, handling, and moving of the components of any structure or equipment, which structure or equipment has been coated with lead-containing material, without first removing such material from the structure or from the equipment;

(17) License shall mean an authorization issued by the department permitting a business entity to engage in a lead abatement project;

(18) Project designer shall mean an individual who is certified by the department to formulate plans and write specifications for conducting lead abatement projects;

(19) Project review shall mean review of a licensed business entity's proposed lead abatement project;

(20) Supervisor shall mean an individual who is certified by the department to supervise and direct a lead abatement project in accordance with the Environmental Lead Hazard Control Act and the rules and regulations adopted and promulgated pursuant to the act; and

(21) Worker shall mean an individual who is certified by the department to clean, handle, repair, remove, encapsulate, haul, dispose of, or otherwise work with material contaminated by lead paint in a nonsupervisory capacity.

Sec. 764. Section 71-6321, Revised Statutes Supplement, 1994, is amended to read:

71-6321. (1) The department shall administer the Environmental Lead Hazard Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing lead abatement projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For certification or recertification of a worker, not less than thirty-five dollars or more than one hundred dollars;

(c) For certification or recertification of a supervisor, not less than seventy dollars or more than two hundred dollars;

(d) For certification or recertification of an inspector, not less than seventy dollars or more than two hundred dollars;

(e) For certification or recertification of a project designer, not less than seventy dollars or more than two hundred dollars;

(f) For approval of a training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(g) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(h) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual lead abatement project is in progress; and

(i) For a project review of each lead abatement project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

All fees shall be based on the costs of administering the act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All fees collected by the department shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of a lead abatement project the department shall conduct an onsite inspection of each licensed business entity's procedures for performing lead abatement projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for lead abatement projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of lead occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

Sec. 765. Section 71-6602, Revised Statutes Supplement, 1994, is amended to read:

71-6602. As used in sections 71-6601 to 71-6615, unless the context otherwise requires:

(1) Activities of daily living shall mean assistance with ambulation, toileting, feeding, and similar activities;

(2) Administering medication shall mean giving a dosage unit of a drug to a home health agency patient;

(3) Assistance with medication shall mean the storage of medication, handling and opening containers of medication, reminding home health agency patients of the time for taking medication, and assistance with the application of topical medication;

(4) Basic therapeutic care shall mean basic health care procedures, including, but not limited to, measuring vital signs, applying hot and cold applications and nonsterile dressings, and assisting with, but not administering, internal and external medications which are normally self-administered. Basic therapeutic care shall not include health care procedures which require the exercise of nursing or medical judgment;

(5) Department shall mean the Department of Health Department of

Health and Human Services Regulation and Licensure;

(6) Home health agency shall mean a home health agency as defined in section 71-2017.01;

(7) Home health aide shall mean a person who is employed by a home health agency to provide personal care, assistance with the activities of daily living, and basic therapeutic care to patients of the home health agency;

(8) Personal care shall mean bathing, hair care, nail care, shaving, dressing, oral care, and similar activities;

(9) Supervised practical training shall mean training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse or licensed practical nurse; and

(10) Vital signs shall mean temperature, pulse, respiration, and blood pressure.

Sec. 766. Section 71-6702, Reissue Revised Statutes of Nebraska, is amended to read:

71-6702. For purposes of sections 71-6701 to 71-6717:

(1) Administer shall mean giving or applying a dosage unit of a medication to a resident;

(2) Assist with reference to medications shall mean giving guidance to a resident in the ingestion or application of a medication by the resident of a facility;

(3) Center for the developmentally disabled shall include home and community-based services as defined in section 68-1038 which are certified by the department;

(4) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(5) External medication shall mean a drug that is to be applied topically to the skin or by drop to the ears, eyes, or nose;

(6) Facility shall mean a domiciliary facility, residential care facility, mental health center, or center for the developmentally disabled as such terms are defined in section 71-2017.01;

(7) Medication assistant shall mean an individual who has been approved by the department to administer to residents of a facility or assist residents of a facility in taking or applying routine oral and external medications and oral and external nonlegend medications monitored by a registered nurse;

(8) Oral medication shall mean a drug that is to be taken by the mouth; and

(9) Routine with reference to oral or external medication shall mean a drug for which the frequency of administration, amount, strength, and method of administration are specifically fixed.

Sec. 767. Section 71-6717, Reissue Revised Statutes of Nebraska, is amended to read:

71-6717. Any fees collected pursuant to sections 71-6704 and 71-6708 shall be remitted to the State Treasurer for credit to the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 768. Section 71-6808, Reissue Revised Statutes of Nebraska, is amended to read:

71-6808. Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 769. Section 71-6809, Reissue Revised Statutes of Nebraska, is amended to read:

71-6809. Director shall mean the Director of Health Director of Regulation and Licensure.

Sec. 770. Section 71-6831, Reissue Revised Statutes of Nebraska, is amended to read:

71-6831. The director shall establish by rule and regulation biennial fees for certificates. Laboratories granted certificates under section 71-6819 shall pay a fee of one hundred fifty dollars for issuance of a certificate. Other laboratories shall pay a fee of not less than four hundred dollars nor more than eight hundred dollars based on the administrative costs of certification. The department shall establish a fee schedule for various categories of laboratories based upon the number and complexity of laboratory tests performed by laboratories in each category. In determining such fees, the department shall, as an objective, obtain sufficient funds from the fees to pay for a portion of the direct and indirect costs of administering the Clinical Laboratories Certification Act without loss or reduction of the appropriation from the General Fund to the department. The fees shall be collected by the department and remitted to the State Treasurer for credit to

the Department of Health Department of Health and Human Services Regulation and Licensure Cash Fund. The fees shall be used solely for the purpose of defraying the direct and indirect costs of administering the act.

Sec. 771. Section 71-7001, Revised Statutes Supplement, 1995, is amended to read:

71-7001. For purposes of sections 71-7001 to 71-7013:

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

(2) Mammogram means the X-ray resulting from mammography;

(3) Mammography means radiological examination of the breast for the purpose of obtaining a mammogram which enables a physician to assess the presence, size, location, and extent of cancerous or potentially cancerous tissue;

(4) Mammogram supplier means a public, private, for-profit, or not-for-profit agency or health care facility that provides mammography;

(5) Screening mammogram means the X-ray resulting from screening mammography;

(6) Screening mammography means radiological examination of the breast of asymptomatic women for the early detection of breast cancer, which examination includes (a) a cranio-caudal and a medial lateral oblique view of each breast and (b) a licensed radiologist's interpretation of the results of the procedure. Screening mammography does not include diagnostic mammography, additional projections required for lesion definition, breast ultrasound, or any breast interventional procedure;

(7) Medical radiographer means a person licensed pursuant to subsection (1) of section 71-3515.01, other than a licensed practitioner or a certified physician assistant, who practices medical radiography under the supervision of a licensed practitioner;

(8) False negative result means a mammogram which indicates no possible cancer when a cancer exists;

(9) False positive result means a mammogram which indicates a possible cancer when none exists;

(10) Professional component means the interpretation of a screening mammogram and a written report regarding the interpretation provided by a mammogram supplier; and

(11) Technical component means a screening mammogram and all other services provided by a mammogram supplier.

Sec. 772. Section 71-7012, Revised Statutes Supplement, 1995, is amended to read:

71-7012. The Breast and Cervical Cancer Advisory Committee is established. The committee consists of the members of the Mammography Screening Committee serving immediately prior to September 9, 1995, and eight additional members appointed by the Director of Health Director of Health and Human Services who have expertise or a personal interest in cervical cancer. The committee shall consist of not more than twenty-four volunteer members, at least eight of whom are women, appointed by the director. Members of the committee shall be persons interested in health care, the promotion of breast cancer screening, and cervical cancer and shall be drawn from both the private sector and the public sector. At least one member shall be a person who has or who has had breast cancer, one member shall be a radiologist, and one member shall be a medical radiographer.

Of the initial members of the committee, four shall be appointed for terms of one year and four shall be appointed for terms of two years. Thereafter all appointments shall be for terms of two years. All members shall serve until their successors are appointed. No member shall serve more than two successive two-year terms. Vacancies in the membership of the committee for any cause shall be filled by appointment by the director for the unexpired term.

Duties of the committee shall include, but not be limited to, recommending guidelines for the program established under section 71-7002, developing and monitoring the schedule of fees established pursuant to section 71-7009, encouraging payment of public and private funds to the Breast and Cervical Cancer Cash Fund, researching and recommending to the department reimbursement limits, planning and implementing outreach and educational programs to Nebraska women, advising the department on its operation of the early detection of breast and cervical cancer grant from the United States Department of Health and Human Services, encouraging payment of public and private funds to the fund, and researching and recommending to the department appropriate definitive diagnostic procedures which may be reimbursed. Members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 773. Section 71-7105, Revised Statutes Supplement, 1994, is



amended to read:

71-7105. There is hereby created the Critical Incident Stress Debriefing Council. The council shall be composed of the Director of Health Department of Regulation and Licensure, the Director of Public Institutions Director of Health and Human Services, the State Fire Marshal, and the Superintendent of Law Enforcement and Public Safety. The council shall specify the organizational and operational goals for the program and shall provide overall policy direction for the program.

Sec. 774. Section 71-7107, Revised Statutes Supplement, 1994, is amended to read:

71-7107. The Department of Health Department of Health and Human Services Regulation and Licensure shall be the lead agency for the program. The department shall:

- (1) Provide office support to program activities;
- (2) Provide necessary equipment for the program and participants;
- (3) Provide staff support to the council;
- (4) Adopt and promulgate rules and regulations to implement the program;
- (5) Recruit emergency medical workers to be trained as critical incident stress debriefing peers;
- (6) Participate in the training and continuing education of such peers and mental health professionals; and
- (7) Appoint a director for the program who shall be an employee of the department and shall be the chairperson of the committee.

Sec. 775. Section 71-7108, Revised Statutes Supplement, 1994, is amended to read:

71-7108. (1) The Department of Public Institutions Department of Health and Human Services shall participate in the council and committee, recruit mental health workers for each critical incident stress debriefing region, and participate in the training and continuing education activities of critical incident stress debriefing peers and mental health professionals.

(2) The Nebraska State Patrol shall participate in the council and committee, receive all initial requests for debriefings, coordinate transportation requirements for critical incident stress debriefing team members, recruit members of the law enforcement profession in each region to be trained as critical incident stress debriefing peers, participate in the training and continuing education activities of critical incident stress debriefing peers and mental health professionals, and appoint a member of the patrol to each regional management committee.

(3) The State Fire Marshal shall participate in the council and committee, cooperate in providing transportation for critical incident stress debriefing teams, recruit firefighters to be trained as critical incident stress debriefing peers in each critical incident stress debriefing region, participate in the training and continuing education activities of critical incident stress debriefing peers and mental health professionals, and appoint an individual who is employed by the State Fire Marshal to be on each regional management committee.

Sec. 776. Section 71-7110, Revised Statutes Supplement, 1994, is amended to read:

71-7110. Each critical incident stress debriefing region shall have a regional management committee composed of representatives of the Department of Health Department of Health and Human Services Regulation and Licensure, the State Fire Marshal, and the Nebraska State Patrol and a regional clinical director. The regional clinical director shall have a graduate degree in a mental health discipline. The regional management committee shall be responsible for the implementation and coordination of the program in the region according to the specifications developed by the council and Interagency Management Committee. The regional management committee shall develop critical incident stress debriefing teams to facilitate the debriefing process.

Sec. 777. Section 71-7303, Revised Statutes Supplement, 1995, is amended to read:

71-7303. For purposes of the First Responders Emergency Rescue Act: (1) Automatic defibrillator shall have the definition found in section 71-5102;

(2) Basic life support shall mean those acts ordinarily performed after training by emergency medical technicians or first responders, including cardiopulmonary resuscitation and the use of oxygen, syrup of ipecac, pharyngeal airways, and pneumatic antishock garments, and not specifically preempted and separately licensed under the Emergency Medical Technician-Paramedic Act. Automatic and semiautomatic defibrillation under the licensing and certification procedures in rules and regulations adopted

and promulgated by the department can also be done by basic life support personnel;

(3) Board shall mean the Board of Ambulance Advisors;

(4) Defibrillation shall have the definition found in section 71-5102;

(5) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(6) Division shall mean the Division of Emergency Medical Services of the department;

(7) First responder shall mean a person certified by the department pursuant to section 71-7304 to locate and provide initial basic life support to patients at the scene of an emergency;

(8) First responder-A/D shall have the definition found in section 71-5102;

(9) First responder service shall mean any privately owned or publicly owned organizational entity the members of which are trained at the first responder level or higher to provide prehospital emergency care to patients at the scene of an emergency;

(10) First responder-A/D service shall have the definition found in section 71-5102;

(11) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(12) Person shall mean an individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity and shall include any trustee, receiver, assignee, or other legal representative thereof but shall not include any agency of the United States Government;

(13) Primary response service area shall mean the primary geographic area which a first responder service serves; and

(14) Semiautomatic defibrillator shall have the definition found in section 71-5102.

Sec. 778. Section 71-7407, Revised Statutes Supplement, 1994, is amended to read:

71-7407. Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 779. Section 71-7423, Revised Statutes Supplement, 1994, is amended to read:

71-7423. A wholesale drug distributor license may be denied, refused renewal, suspended, limited, or revoked by the Director of Health Director of Regulation and Licensure when the director finds that the licensee has violated any provisions of the Wholesale Drug Distributor Licensing Act or of the rules and regulations adopted under the act or has committed any acts or offenses set forth in section 71-147 or 71-148. All actions and proceedings shall be carried out as specified in sections 71-147 to 71-161.19.

For purposes of this section, licensee shall include, but not be limited to, the board of directors, chief executive officer, and other officers of the applicant or the entity to which the license is issued and the manager of each site if more than one site is located in this state.

Sec. 780. Section 71-7502, Revised Statutes Supplement, 1994, is amended to read:

71-7502. (1) The Legislature finds that Nebraska's health care needs and strengths vary in different areas of the state and that, while a statewide effort is needed to meet the health care needs of Nebraskans and to support a statewide infrastructure, Nebraska's communities, on both an individual and a collective basis, are in the best situation to address local needs. The purpose of the Community Health Care Act is to provide a mechanism on a state level to support the needs of communities to meet their health care needs.

(2) The Legislature finds that one purpose of the Community Health Care Act is to authorize a delivery mechanism to provide community public health services statewide. The act is not intended to create an entitlement to any activities described in the act, and the Department of Health and Human Services may perform the activities described in the act to the extent funds are available. The act is not intended to displace local public health departments currently in existence or to discourage the establishment of new local public health departments but rather to provide community public health services to individuals who do not have access to services from a local public health department. The Legislature believes that all individuals should have access to basic community public health services.

Sec. 781. Section 71-7506, Revised Statutes Supplement, 1994, is amended to read:

71-7506. Department shall mean the Department of Health Department of Health and Human Services.

Sec. 782. Section 71-7507, Revised Statutes Supplement, 1994, is amended to read:

71-7507. Director shall mean the Director of Health Director of Health and Human Services.

Sec. 783. Section 71-7518.03, Revised Statutes Supplement, 1994, is amended to read:

71-7518.03. (1) Each community health care regional board may, with the assistance of the department, develop a regional plan which:

(a) Identifies (i) the health-care-related resources, facilities, and services within the region which are available to the citizens of the region, (ii) the health care needs of the region, (iii) ways to meet those needs, (iv) gaps in services, and (v) duplication of services; and

(b) Describes the community public health services made available by public and private providers within the region and proposes a plan addressing deficiencies in community public health services which the core team may provide. The plan shall set priorities for carrying out the plan.

(2) The regional plan adopted pursuant to this section may be amended to incorporate a regional mental health plan. Such mental health plan shall be adopted after consultation with the mental health regions established pursuant to the Nebraska Comprehensive Community Mental Health Services Act. All public and private mental health service providers and facilities shall be included in the development of such plan. If a community health care region contains a regional center funded by the Department of Public Institutions Department of Health and Human Services, the regional center shall be included in such mental health plan.

Sec. 784. Section 71-7522, Revised Statutes Supplement, 1994, is amended to read:

71-7522. The purpose of the Community Health Care Act is to authorize a delivery mechanism to provide community public health services statewide. The act is not intended to create an entitlement to any activities described in the act, and the Department of Health and Human Services may perform the activities described in the act to the extent funds are available. The act is not intended to displace local public health departments currently in existence or to discourage the establishment of new local public health departments but rather to provide community public health services to individuals who do not have access to services from a local public health department. The Legislature believes that all individuals should have access to basic community public health services.

Sec. 785. Section 71-7603, Revised Statutes Supplement, 1994, is amended to read:

71-7603. The Director of Health Director of Health and Human Services, the Director of Regulation and Licensure, and the Director of Finance and Support shall annually report to the Governor and the Legislature on the status of health care expenditures in Nebraska. Such report shall also address the access of Nebraskans to health care services, issues related to quality assurance, differences in the health care status of persons in different parts of Nebraska, changes needed in the education of health care personnel in Nebraska, and recommendations for improvements in the health care delivery system generally.

Sec. 786. Section 71-7702, Revised Statutes Supplement, 1994, is amended to read:

71-7702. For purposes of the Health Care Facility-Provider Cooperation Act:

(1) Community planning shall mean a plan which identifies (a) health-care-related resources, facilities, and services within the community, (b) the health care needs of the community, (c) gaps in services, (d) duplication of services, and (e) ways to meet health care needs;

(2) Cooperative agreement shall mean an agreement among two or more health care facilities or other providers for the sharing, allocation, or referral of patients, personnel, instructional programs, equipment, support services and facilities, or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered or purchased by health care facilities or other providers;

(3) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(4) Health care facility shall mean:

(a) Any facility required to be licensed under sections 71-2017 to 71-2029 or, if in another state, licensed in such state; and

(b) Any parent of a health care facility, health care facility subsidiary, or health care facility affiliate that provides medical or

medically related diagnostic and laboratory services or engages in ancillary activities supporting those services; and

(5) Provider shall mean any person licensed to provide health care services under Chapter 71 and engaged in the practice of medicine and surgery, osteopathic medicine, pharmacy, optometry, podiatry, physical therapy, or nursing.

Sec. 787. Section 72-249, Reissue Revised Statutes of Nebraska, is amended to read:

72-249. The Governor of the state is empowered and directed to receive from the United States all money that may be due or may become due to the state, and it shall be his or her duty to deposit the same without delay in the treasury of the state, taking the State Treasurer's receipts therefor. ~~All~~ 7 ~~PROVIDED, that all~~ money received from the United States, for the particular benefit of any institution, department, or activity under the jurisdiction of the ~~Department of Public Institutions~~ Department of Health and Human Services, the Department of Correctional Services, or the ~~Department of Social Services~~ Department of Health and Human Services Finance and Support, shall be paid to the particular institution, department, or activity for the benefit of which it was received, as directed by the proper department, and by such institution, department, or activity deposited with the State Treasurer not later than the first day of the month following that in which received.

Sec. 788. Section 72-1302, Reissue Revised Statutes of Nebraska, is amended to read:

72-1302. All departments, boards, and commissions of the State of Nebraska, except the Board of Educational Lands and Funds, the Department of Correctional Services, the ~~Department of Public Institutions~~ Department of Health and Human Services, and the University of Nebraska shall cease operating any farm lands except as landlords under written leases by March 1, 1968, as provided in sections 72-1304 and 72-1305.

Sec. 789. Section 72-1303, Reissue Revised Statutes of Nebraska, is amended to read:

72-1303. No capital improvements shall be made to any farm land owned by the State of Nebraska, its departments, boards or commissions, except 7 ~~PROVIDED~~, that this provision shall not apply to the Board of Educational Lands and Funds, the Department of Correctional Services, the ~~Department of Public Institutions~~ Department of Health and Human Services, or the University of Nebraska or projects where the only purpose of the capital improvement would be soil and water conservation.

Sec. 790. Section 72-1304, Reissue Revised Statutes of Nebraska, is amended to read:

72-1304. All publicly owned farm lands not classified as school or saline lands, or lands of the ~~Department of Public Institutions~~ Department of Health and Human Services, the Department of Correctional Services, or the University of Nebraska shall be subject to lease at a fixed annual cash rental for a term of not more than ten years. The department, commission, or board shall have authority to adopt such rules and regulations as it shall deem necessary in the leasing of such lands and to prescribe such terms and conditions of the lease as it shall deem necessary to protect the interests of the state. All departments, boards, or commissions, the ~~Department of Public Institutions~~ Department of Health and Human Services, the Department of Correctional Services, and the University of Nebraska shall adopt and enforce a soil conservation program based on a conservation plan as developed by the local natural resources district. Failure of the lessee to utilize the land for the purpose for which the land was leased or to observe and carry out soil conservation requirements as provided in the rules and regulations of the department, commission, or board shall be cause for cancellation of the lease.

Sec. 791. Section 75-303.01, Revised Statutes Supplement, 1995, is amended to read:

75-303.01. The ~~Department of Social Services~~ Department of Health and Human Services Finance and Support or any agency organized under the Nebraska Community Aging Services Act may contract for transportation for its clients with a contractor which does not hold a certificate or which is not otherwise exempt under section 75-303 only if:

(1) The proposed contractor is the individual who will personally drive the vehicle in question;

(2) The only compensation to the contractor for the transportation is paid by the department at a rate no greater than that provided for reimbursement of state employees pursuant to section 81-1176 for the costs incurred in the transportation; and

(3) There is no regulated motor carrier serving the area in which the client needs transportation or the regulated motor carrier serving the area is incapable of providing the specific service in question by its own

written statement or as determined by the commission upon application of the regulated motor carrier or the department.

Sec. 792. Section 75-303.02, Revised Statutes Supplement, 1995, is amended to read:

75-303.02. The commission, in consultation with the Department of Social Services Department of Health and Human Services Finance and Support, shall adopt and promulgate rules and regulations governing minimum liability insurance requirements, equipment standards, driver qualification requirements, and the issuance and filing of notice for any contractor utilized by the department or any agency organized under the Nebraska Community Aging Services Act pursuant to section 75-303.01.

Sec. 793. Section 76-1304, Reissue Revised Statutes of Nebraska, is amended to read:

76-1304. Unless the method of disposition is adopted for the purpose of evasion of the provisions of sections 76-1301 to 76-1315, such provisions shall not apply to offers or dispositions of an interest in land by a purchaser of subdivided lands for his or her own account in a single or isolated transaction, nor shall such provisions apply to the following:

- (1) Offers or dispositions of evidences of indebtedness secured by a mortgage or deed of trust of real estate;
- (2) Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;
- (3) The sale or lease of real estate under or pursuant to court order;
- (4) The disposition in any manner whatsoever of any unit of public housing under the administrative jurisdiction of a local public housing authority;

(5) Offers or dispositions of securities currently registered with the Director of Banking and Finance and under the provisions of the Securities Act of Nebraska; and

(6) Homes for the aged or infirm or nursing homes licensed by the Department of Health Department of Health and Human Services Regulation and Licensure pursuant to sections 71-2017 to 71-2029.

Sec. 794. Section 76-14,102, Reissue Revised Statutes of Nebraska, is amended to read:

76-14,102. If there is noncompliance by a tenant with section 76-1493 materially affecting health and safety or any condition which is ordered to be changed by the State Fire Marshal, the State Electrical Board, Department of Health the Department of Health and Human Services Regulation and Licensure, or any other regulatory body with jurisdiction over either the park or the mobile home space that can be remedied by repair, replacement of a damaged item, or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy the breach or take reasonable steps to remedy it within that period of time, the landlord may enter the mobile home space, cause the work to be done in a skillful manner, and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value as additional rent on the next date when periodic rent is due or, if the rental agreement has been terminated, for immediate payment. If the landlord is assessed any fine, cost, or charge as a result of the tenant's failure to comply with an order issued by the State Fire Marshal, the State Electrical Board, Department of Health the Department of Health and Human Services Regulation and Licensure, or any other regulatory body with jurisdiction over either the park or the mobile home space, the landlord may require the tenant to pay such fine, cost, or charge.

Sec. 795. Section 77-2602, Revised Statutes Supplement, 1994, is amended to read:

77-2602. (1) Every person engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, thirty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package. Commencing July 1, 1993, and continuing until July 1, 1994, the State Treasurer shall place the equivalent of twenty-one cents of such tax less three million seven hundred fifty thousand dollars in

the General Fund. Commencing July 1, 1994, and continuing until July 1, 2009, the State Treasurer shall place the equivalent of twenty-one cents of such tax less three million dollars each fiscal year of proceeds of such tax in the General Fund. Commencing July 1, 2009, the State Treasurer shall place the equivalent of twenty-one cents of such tax in the General Fund. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by thirty-four. The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the Department of Health Department of Health and Human Services Finance and Support Cash Fund to carry out sections 81-637 to 81-640;

(c) Third, the State Treasurer shall place in the University Buildings Renovation and Land Acquisition Fund the sum of one million seven hundred sixty-five thousand one hundred fifty-three dollars and in the State College Buildings Renovation and Land Acquisition Fund the sum of three hundred sixty-one thousand two hundred twenty-two dollars each year for fiscal year 1984-85 through fiscal year 1993-94. Such amounts are hereby appropriated and the unexpended balances existing in such funds at the end of each fiscal year or biennium through June 30, 1994, are hereby reappropriated. The money in such funds shall be used for payment of the costs of building repair, remodeling, and renovation projects and equipment and land acquisition projects of the University of Nebraska and the Nebraska state colleges authorized by sections 85-1,111, 85-1,112, 85-322, and 85-323;

(d) Fourth, beginning July 1, 1988, the State Treasurer shall place the equivalent of one-half cent of such tax, but in any event not less than six hundred ninety-five thousand one hundred seventy-eight dollars, in the University Facility Improvement Fund and shall place the equivalent of one and one-half cents of such tax, but in any event not less than one million eight hundred fifty-seven thousand two hundred thirteen dollars, in the State College Facilities Improvement Fund for each fiscal year to carry out sections 85-1,116, 85-1,117, 85-324, and 85-325. The Legislature shall appropriate the sum of six hundred ninety-five thousand one hundred seventy-eight dollars each year for fiscal year 1988-89 through fiscal year 1995-96 or until all financial obligations incurred in the contracts entered into by the Board of Regents pursuant to section 85-1,117 are discharged, whichever occurs first. The Legislature shall appropriate the sum of one million eight hundred fifty-seven thousand two hundred thirteen dollars each year for fiscal year 1988-89 through fiscal year 1995-96 or until all financial obligations incurred in the contracts entered into by the Board of Trustees of the Nebraska State Colleges pursuant to section 85-325 are discharged, whichever occurs first. The State Treasurer shall transfer the unexpended balance existing in the University Facility Improvement Fund and the State College Facilities Improvement Fund on June 15 of each year to the General Fund;

(e) Fifth, the State Treasurer shall place two million eight hundred six thousand two hundred seventy dollars in the University Facilities Fund and one million two hundred five thousand ninety-eight dollars in the State College Facility Fund each fiscal year for fiscal year 1993-94 through fiscal year 1996-97 to carry out sections 85-1,113, 85-1,114, 85-326, and 85-327. The Legislature shall appropriate the sum of two million eight hundred six thousand two hundred seventy dollars from the University Facilities Fund to the Board of Regents of the University of Nebraska each year for fiscal year 1993-94 through fiscal year 1996-97 or until all financial obligations incurred in contracts entered into by the board pursuant to section 85-1,114 are discharged, whichever occurs first. The Legislature shall appropriate the sum of one million two hundred five thousand ninety-eight dollars from the State College Facility Fund to the Board of Trustees of the Nebraska State Colleges each year for fiscal year 1993-94 through fiscal year 1996-97 or until all financial obligations incurred in contracts entered into by the board pursuant to section 85-327 are discharged, whichever occurs first. The State Treasurer shall transfer any unobligated balance existing in the University Facilities Fund and the State College Facility Fund to the General Fund on June 15 of each year;

(f) Sixth, beginning July 1, 1995, the State Treasurer shall place the equivalent of two cents of such tax in the City of Omaha Public Events Facilities Fund for each fiscal year through fiscal year 2000-01. The Legislature shall appropriate all sums inuring to the fund to the city of Omaha upon evidence that any amounts so appropriated are matched with funds

derived from sources other than state funds in amounts equivalent to one dollar for every two dollars appropriated;

(g) Seventh, the State Treasurer shall place four million one hundred eighty-nine thousand two hundred forty-two dollars in the Secure Youth Confinement Facility Fund, which fund is hereby created, for fiscal years 1995-96 and 1996-97. The Legislature shall appropriate amounts credited to the fund pursuant to this section to the Department of Correctional Services to finance construction of a secure youth confinement facility;

(h) Eighth, the State Treasurer shall place the difference between the equivalent of thirteen cents of such tax and the sum of the amounts distributed pursuant to subdivisions (a) through (g) of this subsection in a special fund to be known as the Nebraska Capital Construction Fund, and disbursements from such fund shall be, beginning July 1, 1995, made only to the Building Renewal Allocation Fund; and

(i) Ninth, beginning July 1, 1993, and continuing until January 1, 1994, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of two million two hundred fifty thousand dollars to carry out the Municipal Infrastructure Redevelopment Fund Act. Beginning January 1, 1994, and continuing until July 1, 1994, the State Treasurer shall place in the fund the sum of one million five hundred thousand dollars to carry out the act. Beginning July 1, 1994, and continuing until July 1, 2009, the State Treasurer shall place in the fund the sum of three million dollars each fiscal year to carry out the act. The Legislature shall appropriate the sum of three million seven hundred fifty thousand dollars for fiscal year 1993-94. The Legislature shall appropriate the sum of three million dollars each year for fiscal year 1994-95 through fiscal year 2008-09.

(2) The Legislature hereby finds and determines that the projects funded from the University Buildings Renovation and Land Acquisition Fund, the State College Buildings Renovation and Land Acquisition Fund, the University Facility Improvement Fund, the State College Facilities Improvement Fund, the University Facilities Fund, the State College Facility Fund, the Municipal Infrastructure Redevelopment Fund, the City of Omaha Public Events Facilities Fund, and the Secure Youth Confinement Facility Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the Department of Health Department of Health and Human Services Finance and Support Cash Fund, (d) the University Buildings Renovation and Land Acquisition Fund and the State College Buildings Renovation and Land Acquisition Fund, (e) the University Facility Improvement Fund and the State College Facilities Improvement Fund, (f) the University Facilities Fund and the State College Facility Fund, (g) the Municipal Infrastructure Redevelopment Fund, (h) the City of Omaha Public Events Facilities Fund, and (i) the Secure Youth Confinement Facility Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (i) of this subsection.

Sec. 796. Section 77-2704.21, Revised Statutes Supplement, 1994, is amended to read:

77-2704.21. Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of the entire purchase price of a motor vehicle purchased when the maximum amount allowed by law is contributed by the United States Department of Veterans Affairs or the Department of Social Services Department of Health and Human Services Finance and Support for a disabled person. If the amount contributed is less than the maximum amount, the exemption shall be based on the portion of the purchase price contributed.

Sec. 797. Section 77-27,160, Revised Statutes Supplement, 1994, is amended to read:

77-27,160. It is the intent of the Legislature to establish and maintain a procedure to set off against a debtor's income tax refund or state lottery prize any debt, which is assigned to the Department of Social Services

Department of Health and Human Services Finance and Support or which any individual not eligible as a public assistance recipient is attempting to collect, which has accrued through written contract, subrogation, or court judgment and is in the form of a liquidated amount due and owing for the care, support, or maintenance of a child or for spousal support.

Sec. 798. Section 77-27,161, Revised Statutes Supplement, 1994, is amended to read:

77-27,161. For purposes of sections 77-27,160 to 77-27,173, unless the context otherwise requires:

(1) Debt shall mean any liquidated amount due and owing any claimant which has accrued through assignment, contract, subrogation, court judgment, or operation of law, regardless of whether there is an outstanding judgment for such amount, and which is for the care, support, or maintenance of a child or for spousal support and shall include the costs of health services subject to section 77-27,163.01;

(2) Debtor shall mean any individual owing money to or having a delinquent account with any claimant which has not been satisfied by court order, set aside by court order, or discharged in bankruptcy;

(3) Claimant shall mean:

(a) The Department of Social Services Department of Health and Human Services Finance and Support with respect to collection of a debt owed by a parent in a case involving a recipient of aid to dependent children in which rights to child, spousal, or medical support payments have been assigned to this state;

(b) An individual who is not eligible as a public assistance recipient and to whom a child, spousal, or medical support debt is owed; or

(c) Any person or entity entitled to receive child support, spousal support, or medical support as defined in section 43-1712.01 pursuant to an order issued by a court or agency of another state or jurisdiction, including an agency of another state or jurisdiction to which a person has assigned his or her right to receive such support. Such a claimant shall submit certification and documentation sufficient to satisfy the requirements of section 43-1730;

(4) Refund shall mean any Nebraska state income tax refund which the Department of Revenue determines to be due an individual taxpayer. In the case of a joint income tax return, it is presumed that each partner to the marriage submitting such return contributed one-half of the earnings upon which the refund is based. The presumption may be contested by the state, the delinquent taxpayer, and the innocent spouse by virtue of the hearing process prescribed in section 77-27,169;

(5) Spousal support shall have the same meaning as in section 43-1715; and

(6) State lottery prize shall mean any lottery prize in excess of five hundred dollars to be awarded to an individual pursuant to the State Lottery Act upon presentation of a winning lottery ticket to the Lottery Division of the Department of Revenue for redemption.

Sec. 799. Section 77-27,162, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,162. The Department of Revenue, the Department of Administrative Services, the Department of Health and Human Services, and the Department of Social Services Department of Health and Human Services Finance and Support shall develop and implement a collection system to carry out the intent of section 77-27,160.

Sec. 800. Section 77-27,163.01, Revised Statutes Supplement, 1994, is amended to read:

77-27,163.01. The Department of Social Services Department of Health and Human Services Finance and Support shall use the procedures in this section and sections 77-27,160 to 77-27,173 to set off against a debtor's income tax refund the costs of health services provided to a child of the debtor if:

(1) The debtor is required by court or administrative order to provide coverage for the costs of such services; and

(2) The debtor has received payment from a third party for the costs of such services but has not used the payment to reimburse either the other parent or guardian or the provider of such services.

The amount of the setoff shall be limited to the amount necessary to reimburse the department for its expenditures for the costs of such services under the medical assistance program established pursuant to sections 68-1018 to 68-1025. Any claim for current or past-due child support shall take priority over a claim for setoff for the costs of health services.

Sec. 801. Section 77-27,164, Reissue Revised Statutes of Nebraska, is amended to read:



77-27,164. The Department of Social Services Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations necessary to carry out the purposes of sections 77-27,160 to 77-27,173.

Sec. 802. Section 77-27,165, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,165. Prior to December 1 of each year, the Department of Social Services Department of Health and Human Services Finance and Support shall send notification to the debtor of the assertion of the department's rights, or of the rights of an individual not eligible as a public assistance recipient, to all or a portion of the debtor's income tax refund. The notice shall contain the procedures available to the debtor for protesting the offset, the debtor's opportunity to give written notice of intent to contest the validity of the claim before the Department of Social Services department within thirty days of the date of mailing the notice, and the defenses the debtor may raise. The debt shall be certified by the Department of Social Services department through a proffset review.

Sec. 803. Section 77-27,166, Revised Statutes Supplement, 1994, is amended to read:

77-27,166. (1) By December 1 of each year, the Department of Social Services Department of Health and Human Services Finance and Support may submit any certified debt of twenty-five dollars or more to the Department of Revenue except when the validity of the debt is legitimately in dispute. Any submission shall be effective only to initiate setoff for a claim against a refund that would be made for the calendar year subsequent to the year in which such submission is made.

(2) The Lottery Division of the Department of Revenue shall review all current debts on the records of the Department of Social Services Department of Health and Human Services Finance and Support at the time of redeeming a lottery ticket for a state lottery prize to certify a debt owed by a winner of a state lottery prize.

Sec. 804. Section 77-27,167, Revised Statutes Supplement, 1994, is amended to read:

77-27,167. If a debtor identified by the Department of Social Services Department of Health and Human Services Finance and Support pursuant to section 77-27,165 or 77-27,166 is determined by the Department of Revenue to be entitled to a refund of twenty-five dollars or more or a state lottery prize, the Department of Social Services Department of Health and Human Services Finance and Support shall be notified that a refund or prize is pending.

Sec. 805. Section 77-27,168, Revised Statutes Supplement, 1994, is amended to read:

77-27,168. (1) Upon receipt of notification pursuant to section 77-27,167 that a debtor is entitled to a refund or a state lottery prize, the Department of Social Services Department of Health and Human Services Finance and Support shall, within twenty days, send written notification to the debtor of an assertion of its rights, or of the rights of an individual not eligible as a public assistance recipient, to all or a portion of the debtor's refund or state lottery prize.

(2) The written notification shall clearly set forth the basis for the claim to the refund or state lottery prize, the intention to apply the refund or state lottery prize against the debt to a claimant, the debtor's opportunity to give written notice of intent to contest the validity of the claim before the Department of Social Services Department of Health and Human Services Finance and Support within thirty days of the date of the mailing of the notice, the mailing address to which the application for a hearing must be sent, and notice that failure to apply for a hearing in writing within the thirty-day period will be deemed a waiver of the opportunity to contest the claim, causing a setoff by default.

In the case of a joint tax return, the notice shall also state the name of the taxpayer named in the return, if any, against whom no debt is claimed. There shall be no affirmative duty placed upon the non-owing spouse of an intercepted tax return to initiate an action to receive payment of the noninterceptable amount.

Sec. 806. Section 77-27,169, Revised Statutes Supplement, 1994, is amended to read:

77-27,169. A written application, pursuant to sections 77-27,165 and 77-27,168, by a debtor for a hearing shall be effective upon mailing the application, postage prepaid and properly addressed, to the Department of Social Services Department of Health and Human Services Finance and Support.

If the Department of Social Services Department of Health and Human Services Finance and Support receives a written application contesting a

claim, it shall grant a hearing to the taxpayer or state lottery prize winner to determine whether the claim is valid. If the amount asserted as due and owing is not correct, an adjustment to the claimed amount shall be made. No issues shall be reconsidered at the hearing which have been previously litigated.

Sec. 807. Section 77-27,171, Revised Statutes Supplement, 1994, is amended to read:

77-27,171. (1) Upon final determination of the amount and validity of the debt due and owing by means of the hearing provided for in section 77-27,169 or by the taxpayer's default through failure to request a hearing pursuant to section 77-27,168, the Department of Social Services Department of Health and Human Services Finance and Support shall certify the debt to the Department of Administrative Services within twenty days from the date of the final determination. The final determination shall not delay a refund beyond the period prescribed in section 77-2794.

(2) Upon receipt of the certified debt amount from the Department of Social Services Department of Health and Human Services Finance and Support, the Department of Administrative Services shall deduct an amount equal to the certified debt from the refund or state lottery prize due the debtor, up to the amount of the refund or state lottery prize, and shall transfer such amount, by noncash voucher, to the Department of Social Services Department of Health and Human Services Finance and Support. In nonpublic assistance cases, the Department of Social Services Department of Health and Human Services Finance and Support shall transmit the funds collected to the clerk of the district court for dispersal to the payee. The Department of Administrative Services shall refund or award any remaining balance to the debtor as if the setoff had not occurred.

Sec. 808. Section 77-27,172, Revised Statutes Supplement, 1994, is amended to read:

77-27,172. When the Department of Social Services Department of Health and Human Services Finance and Support receives all or a portion of a certified debt pursuant to section 77-27,171, the department shall notify the debtor of the completion of the setoff. Such notice shall include the final amount of the refund or state lottery prize to which the debtor was entitled prior to the setoff, the amount of the certified debt, and the amount of the refund or state lottery prize in excess of the debt, if any.

Sec. 809. Section 77-27,173, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,173. The Department of Social Services Department of Health and Human Services Finance and Support shall reimburse the Department of Revenue and the Department of Administrative Services for all reasonable and necessary costs incurred by the Department of Revenue and the Department of Administrative Services in setting off debts pursuant to sections 77-27,160 to 77-27,173.

Sec. 810. Section 77-27,208, Revised Statutes Supplement, 1994, is amended to read:

77-27,208. Setoffs against state income tax refunds shall have the following priorities:

(1) Setoffs by the Department of Social Services Department of Health and Human Services Finance and Support;

(2) Setoffs by the Internal Revenue Service; and

(3) Setoffs by the Department of Labor.

Sec. 811. Section 79-444.01, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.01. Except as provided in sections 79-444.06 and 79-444.07, each board of education and the governing authority of each school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to enrollment, and any student who does not comply with this section shall not be permitted to continue in school until he or she shall so comply except as provided by section 79-444.07. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

Except as provided in the Childhood Vaccine Act, the cost of such immunization shall be borne by the parent or guardian of each student who is immunized or by the Department of Health Department of Health and Human Services for those students whose parent or guardian is financially unable to meet such cost.

Sec. 812. Section 79-444.02, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.02. Any local board of education or the governing authority of a private school in this state may request assistance from the Department

of Health ~~Department of Health and Human Services~~ in establishing immunization clinics. Such assistance shall consist of vaccines, serums, and other supplies, services, and guidance from the ~~Director of Health~~ Director of Health and Human Services.

Sec. 813. Section 79-444.03, Reissue Revised Statutes of Nebraska, is amended to read:

79-444.03. ~~The Department of Health~~ Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations relating to the required levels of protection, provisional enrollment under the provisions of section 79-444.07, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The department may modify, add to, or delete from the list of required immunizations set out in section 79-444.01. The department shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of sections 79-444 to 79-444.07.

Sec. 814. Section 79-445, Reissue Revised Statutes of Nebraska, is amended to read:

79-445. (1) A school board or board of education may admit nonresident pupils to the school district, may determine the rate of tuition of the pupils, and shall collect such tuition in advance except as otherwise provided in this section.

(2) When the pupil as a ward of the state or as a ward of any court (a) has been placed in a school district other than the district in which he or she resided at the time he or she became a ward and such ward does not reside in a foster family home licensed or approved by the ~~Department of Social Services~~ Department of Health and Human Services Regulation and Licensure or a foster home maintained or used by the Department of Correctional Services pursuant to section 83-108.04 or (b) has been placed in any institution which maintains a special education program which has been approved by the State Department of Education and such institution is not owned or operated by the pupil's resident school district, the cost of his or her education and the required transportation costs associated with the child's education shall be paid by the state, but not in advance, to the receiving school district or approved institution under rules and regulations prescribed by the ~~Department of Social Services~~ Department of Health and Human Services. Any pupil who is a ward of the state or a ward of any court who resides in a foster family home licensed or approved by the ~~Department of Social Services~~ Department of Health and Human Services Regulation and Licensure or a foster home maintained or used by the Department of Correctional Services pursuant to section 83-108.04 shall be deemed a resident of the district in which the foster family home or foster home is located.

(3) In the case of any individual eighteen years of age or younger who is a ward of the state or any court and who is placed in a county detention home established under section 43-2,110, the cost of his or her education shall be paid by the state, regardless of such individual's district of residency, to the agency or institution which: (a) Is selected by the county board with jurisdiction over such detention home; (b) has agreed or contracted with such county board to provide educational services; and (c) has been approved by the State Department of Education pursuant to rules and regulations prescribed by the State Board of Education.

(4) No tuition shall be charged for children who may be by law allowed to attend the school without charge. The school district in which the parent or guardian of any nonresident pupil maintains his or her legal residence shall not be liable for the payment of tuition and the children of school age of such parent or guardian shall be entitled to free common school privileges the same as any child who is a bona fide resident of such school district whenever the parent or guardian of such nonresident pupil, having entered the public service of the State of Nebraska, has moved from the school district in which he or she maintains legal residence into another school district for temporary purposes incidental to serving the state, without the intention of making the school district to which the parent or guardian has moved his or her legal residence. No tuition shall be charged for a child whose parents are divorced if such child attends school in a district in which either parent resides. The burden of proof as to legal residence shall rest with the person claiming legal residence in any district. The school district may allow a pupil whose residency in the district ceases during a school year to continue attending school for the remainder of that school year without payment of tuition.

(5) The school board or board of education may admit nonresident pupils to the school district without requiring the payment of tuition if such pupils are in the actual physical custody of a resident of the school district

and are not residents of an adjoining school district and the school board or board of education determines that the pupils would otherwise be denied guaranteed free common school privileges.

(6) The changes made to this section by Laws 1992, LB 3, Ninety-second Legislature, Third Special Session, shall apply to all reimbursements under this section for school year 1992-93 and all school years thereafter.

Sec. 815. Section 79-4,133, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,133. Every school district shall, separately and carefully, cause every child under its jurisdiction to be inspected, except as provided in this section, to ascertain if such child is suffering from (1) defective sight or hearing, (2) dental defects, or (3) other conditions as prescribed by the Department of Health Department of Health and Human Services Regulation and Licensure. If such inspection determines that any child has such condition, it shall be the duty of the school to notify the parent of the child, in writing, of such condition and explain to such parent the necessity of professional attendance for such child. Whenever a child shall apparently show symptoms of any contagious or infectious disease such child shall be sent to his home immediately, or as soon as safe and proper conveyance can be found, and the proper school authority, school board, or board of education shall be at once notified. No child shall be compelled to submit to a physical examination other than the inspection by the school over the written objection of his or her parent or guardian, delivered to the school authorities. Such objection shall not exempt the child from the quarantine laws of the state nor prohibit an examination for infectious or contagious diseases.

Sec. 816. Section 79-4,134, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,134. The Department of Health Department of Health and Human Services Regulation and Licensure shall prescribe rules and regulations for conducting school health inspections, the qualifications of the person or persons authorized to make such inspections, and the health conditions to be observed and remedied, and shall furnish to school authorities regulations and other useful materials for carrying out the purposes of sections 79-4,133 to 79-4,138.

Sec. 817. Section 79-4,207, Reissue Revised Statutes of Nebraska, is amended to read:

79-4,207. (1) Each school board, after making a determination that an actual or potential environmental hazard or accessibility barrier exists within the school buildings or grounds under its control, may make and deliver to the county clerk of such county in which any part of the school district is situated, not later than September 10, an itemized estimate of the amounts necessary to be expended for the abatement of such environmental hazard or accessibility barrier elimination in its school buildings or grounds. Each school board shall conduct a public hearing on the itemized estimate prior to presenting such estimate to the county clerk. Notice of the place and time of such hearing shall, at least five days prior to the date set for hearing, be published in a newspaper of general circulation within the school district or be sent by direct mailing to each resident within the district.

(2) The school board shall designate the particular environmental hazard abatement project or accessibility barrier elimination project for which the tax levy provided for by this section will be expended, the period of years, which shall not exceed ten years, for which the tax will be levied for such project, and the amount of the levy for each year thereof. The school board may designate more than one project and levy a tax pursuant to this section for each such project, concurrently or consecutively, as the case may be, if the aggregate levy in each year and the duration of each levy will not exceed the limitations specified in this section. Each levy for a project which is authorized by this section may be imposed for such duration as shall be specified by the school board notwithstanding the contemporaneous existence or subsequent imposition of any other levy for another project imposed pursuant to this section and notwithstanding the subsequent issuance by the district of bonded indebtedness payable from its general fund levy.

(3) The county clerk shall levy such taxes, not to exceed five and one-fifth cents per one hundred dollars of taxable valuation, on the taxable property of the district necessary to cover the project costs itemized by the school board. Such taxes shall be collected by the county treasurer at the same time and in the same manner as county taxes are collected and when collected shall be paid to the treasurer of the district and used to cover the project costs.

(4) If such school board operates grades nine through twelve as part

of an affiliated school system, it shall designate the fraction of the project to be conducted for the benefit of grades nine through twelve. Such fraction shall be raised by a levy placed upon all of the taxable value of all taxable property in the affiliated school system pursuant to subsection (2) of section 79-434. The balance of the project to be conducted for the benefit of grades kindergarten through eight shall be raised by a levy placed upon all of the taxable value of all taxable property in the district which is governed by such school board. The combined rate for both levies in the high school district, to be determined by such board, shall not exceed five and one-fifth cents on each one hundred dollars of taxable value.

(5) Each school board which submits an itemized estimate shall establish an environmental hazard abatement and accessibility barrier elimination project fund. Taxes collected pursuant to this section shall be credited to such fund to cover the project costs. Such estimates may be presented to the county clerk and taxes levied accordingly. The ~~Director of Health~~ Director of Regulation and Licensure shall, by January 1, 1993, 1995, 1997, and 1999, deliver a report to the Legislature estimating the amount of hazardous materials which remain in the public schools of the state.

(6) The itemized estimate submitted by a school board may include the actual cost of abatement of an environmental hazard when such abatement occurred prior to the delivery of such estimate to the county clerk and was completed after June 28, 1982.

(7) For purposes of this section:

(a) Abatement shall include, but not be limited to, any inspection and testing regarding environmental hazards, any maintenance to reduce, lessen, put an end to, diminish, moderate, decrease, control, dispose of, or eliminate environmental hazards, any removal or encapsulation of environmentally hazardous material or property, any restoration or replacement of material or property, any related architectural and engineering services, and any other action to reduce or eliminate environmental hazards in the school buildings or on the school grounds under the school board's control, except that abatement shall not include the encapsulation of any material containing more than one percent friable asbestos;

(b) Accessibility barrier shall mean anything which impedes entry into, exit from, or use of any building or facility by all people;

(c) Accessibility barrier elimination shall include, but not be limited to, inspection for and removal of accessibility barriers, maintenance to reduce, lessen, put an end to, diminish, control, dispose of, or eliminate accessibility barriers, related restoration or replacement of facilities or property, any related architectural and engineering services, and any other action to eliminate accessibility barriers in the school buildings or grounds under the school board's control; and

(d) Environmental hazard shall mean any contamination of the air, water, or land surface or subsurface caused by any substance adversely affecting human health or safety if such substance has been declared hazardous by a federal or state statute, rule, or regulation.

(8) Accessibility barrier elimination project costs shall include, but not be limited to, inspection, maintenance, accounting, emergency services, consultation, or any other action to reduce or eliminate accessibility barriers.

(9) For the purpose of paying amounts necessary for the abatement of environmental hazards and accessibility barrier elimination, the school board may borrow money and issue bonds and other evidences of indebtedness of the district, which bonds and other evidences of indebtedness shall be secured by and payable from an irrevocable pledge by the district of amounts received in respect of the tax levy provided for by this section and any other funds of the district available therefor. Bonds and other evidences of indebtedness issued by a district pursuant to this subsection shall not constitute a general obligation of the district or be payable from any portion of its general fund levy.

Sec. 818. Section 79-1254.02, Reissue Revised Statutes of Nebraska, as amended by section 473, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996, is amended to read:

The contracts of the teaching staff and school nurses employed by an educational program administered by the State Department of Education, the ~~Department of Public Institutions~~ Department of Health and Human Services, or a political subdivision of the state, except a school district or an educational service unit, the colleges governed by the Board of Trustees of the Nebraska State Colleges, and any university governed by the Board of Regents of the University of Nebraska shall require the sanction of a majority of the members of the governing board. Except as provided in section 475 of this act, each such contract shall be deemed renewed and in force and effect

until a majority of the governing board votes or the Director of Public Institutions Director of Health and Human Services determines, sixty days before the close of the contract period, to amend or terminate the contract for just cause. The department or the secretary of the governing board shall notify each teacher or school nurse in writing at least ninety days before the close of the contract period of any conditions of unsatisfactory performance or a reduction in teaching staff or nursing staff that the department or board considers may be just cause to either amend or terminate the contract for the ensuing year. Any teacher or school nurse so notified shall have the right to file, within five days after receipt of such notice, a written request with the department or board for a hearing before the department or board. Upon receipt of such request, the department or board shall order the hearing to be held within ten days after such receipt and shall give written notice of the time and place of the hearing to the teacher or school nurse. At the hearing, evidence shall be presented in support of the reasons given for considering amendment or termination of the contract and the teacher or school nurse shall be permitted to produce evidence related thereto. The department or board shall render the decision to amend or terminate a contract based on the evidence produced at the hearing.

Sec. 819. Section 79-1254.09, Reissue Revised Statutes of Nebraska, is amended to read:

79-1254.09. Any contract of employment entered into after July 1, 1984, between the teaching staff and the Department of Public Institutions, the Department of Correctional Services, or the Department of Social Services Department of Health and Human Services which applies to the first two years of the employment of such teaching staff shall provide that the first two years of the employment of such teacher are a probationary period. Any such contract may be terminated during the probationary period without cause.

Sec. 820. Section 79-1457, Reissue Revised Statutes of Nebraska, is amended to read:

79-1457. The State Department of Education shall enter into an interagency agreement with the Department of Public Institutions Department of Health and Human Services to provide vocational rehabilitation services and supported employment programs to persons with developmental disabilities. The Division of Rehabilitation Services of the State Department of Education shall match all state and local funds provided by the Department of Public Institutions Department of Health and Human Services and developmental disabilities regions to the extent that federal vocational rehabilitation funds are available.

Sec. 821. Section 79-3326, Reissue Revised Statutes of Nebraska, is amended to read:

79-3326. Each school district shall pay an amount equal to the average per pupil cost of the servicing agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for every handicapped student of less than five years of age who is a resident of the district and attending an educational program not operated by the school district, including programs operated by the State Department of Education, the Department of Public Institutions Department of Health and Human Services, and any other servicing agency whose programs are approved by the State Department of Education.

Sec. 822. Section 79-3330, Reissue Revised Statutes of Nebraska, is amended to read:

79-3330. Except as provided in section 79-3331 and sections 79-3401 to 79-3417, each school district shall pay an amount equal to the average per pupil cost of the servicing agency of the preceding year or the cost as agreed upon pursuant to the contract to the agency providing the educational program for every child who is a resident of the district and attending an educational program not operated by the school district, including programs operated by the State Department of Education, the Department of Public Institutions Department of Health and Human Services, and any other servicing agency whose programs are approved by the State Department of Education.

Sec. 823. Section 79-3341, Reissue Revised Statutes of Nebraska, is amended to read:

79-3341. No school district shall make a placement in a special education program requiring residential care without advance consultation with the State Department of Education to review the child's needs and the availability and appropriateness of each possible placement in the continuum of alternative services. Applications for approval of special education program placements requiring residential care shall be signed by the parent or legal guardian, submitted via the school district of which the child is a resident to the State Department of Education, and acted upon by the department within thirty days of receipt by the department. If an application



is denied, the parent or legal guardian shall be provided written notification by the State Department of Education of his or her right to appeal the decision pursuant to sections 79-3349 to 79-3354 and right to name the State Department of Education as respondent in the appeal proceeding.

The State Department of Education and the Department of Social Services Department of Health and Human Services shall annually establish the maximum rates that the state will pay for the ordinary and reasonable cost of residential care placements within the state. After September 6, 1985, children whose residential placement was funded by state and regional agencies other than the State Department of Education shall continue to be funded by such agencies.

Sec. 824. Section 79-3342, Reissue Revised Statutes of Nebraska, is amended to read:

79-3342. Following residential placement, the local school district and the State Department of Education shall continue efforts to develop appropriate programs closer to the handicapped student's home and shall cooperate with the Department of Social Services Department of Health and Human Services in preparing families to accommodate returning students. The Department of Social Services Department of Health and Human Services shall provide consultative services, as defined by mutual agreement between the State Department of Education and the Department of Social Services Department of Health and Human Services, to the children and families initially provided residential care.

Sec. 825. Section 79-3348, Reissue Revised Statutes of Nebraska, is amended to read:

79-3348. The State Department of Education shall adopt, promulgate, and publish such rules and regulations as shall be necessary to carry out the Special Education Act. Such rules and regulations shall include, but not be limited to, the regulation of costs under section 79-3341, limitation of the program to handicapped children who require residential care in order to receive an appropriate special education program, and provisions for contracts with the Department of Social Services Department of Health and Human Services to assist in the administration of the act.

Sec. 826. Section 79-3503, Reissue Revised Statutes of Nebraska, is amended to read:

79-3503. For purposes of the Help Education Lead to Prosperity Act:  
 (1) Department shall mean the State Department of Education;  
 (2) Fund shall mean the Educational Excellence Fund;  
 (3) Program funds shall mean those funds distributed pursuant to section 79-3505 for general salary increases;  
 (4) Provider shall mean a school district, an educational service unit, a school operated by the Department of Correctional Services, the State Department of Education, the Department of Public Institutions, or the Department of Social Services, Department of Health and Human Services, the Beatrice State Developmental Center, or the Lincoln Regional Center;  
 (5) Regular compensation shall mean the annual salary specified in a teacher's contract not including pay earned for performance of noninstructional duties or the employer's share of retirement benefits; and  
 (6) Teacher shall mean a nonsupervisory, certificated staff member of a provider.

Sec. 827. Section 79-3903, Reissue Revised Statutes of Nebraska, is amended to read:

79-3903. For purposes of the Children with Disabilities and Family Service System Act:

(1) Children with disabilities shall mean handicapped children as defined in section 79-3309 who are subject to section 79-3315 and who cannot be educated in their home communities or who are at risk of out-of-home placement;  
 (2) Department shall mean the State Department of Education; and  
 (3) State plan shall mean the annual plan of services prepared by the department and team pursuant to section 79-3904; and  
 (4) Team shall mean the Children with Disabilities and Family Service System Planning Team created in section 79-3907.

Sec. 828. Section 79-3904, Reissue Revised Statutes of Nebraska, is amended to read:

79-3904. The department, ~~in consultation with the team,~~ shall by ~~January 1, 1992,~~ prepare a state plan. The state plan shall be a plan of services for children with disabilities, which plan shall include:

(1) The number of children with disabilities to be served and a description of their needs;  
 (2) A detailed description of programs and services to be provided;  
 (3) A detailed description of programs and services needed with

proposals for funding and development;

(4) Recommendations for specific duties and responsibilities for state agencies;

(5) A process for dissemination of proposed standards and regulations which facilitates the active involvement of communities and families;

(6) Procedures for regular case reviews and program reviews by agency administrators;

(7) Reports of independent studies of the efficiency and effectiveness of programs provided and policies implemented;

(8) A variety of mechanisms for families and, when appropriate, for children to advise the administrators of the programs operated under the Children with Disabilities and Family Service System Act about program structures, expectations, outcomes, unmet needs, and issues specific to groups defined by economic status or by racial, cultural, or ethnic identity;

(9) An interagency decision process for the provision of appropriate educational and family support services for children at risk of out-of-home placement. Such a decision process shall assure that all options for community-based programs have been explored before out-of-community placements are made. It shall also assure that appropriate services are present in communities before children are placed in such communities; and

(10) A process for monitoring and reporting expenditures of state funds for all out-of-state placements.

Sec. 829. Section 79-3905, Reissue Revised Statutes of Nebraska, is amended to read:

79-3905. The state plan shall include an examination of existing state school resources and consideration of reorganization and restructuring of such resources to meet the needs of the children with disabilities at risk of out-of-home placement. By January 1, 1992, the team shall report to the legislature all information required in section 79-3904.

Sec. 830. Section 79-3910, Reissue Revised Statutes of Nebraska, is amended to read:

79-3910. The State Department of Education, the Department of Health, the Department of Public Institutions, and the Department of Social Services, Department of Health and Human Services, and the Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations to carry out the Children with Disabilities and Family Service System Act.

Sec. 831. Section 80-304, Reissue Revised Statutes of Nebraska, is amended to read:

80-304. The management of the Nebraska veterans homes shall be vested in the Department of Public Institutions, Department of Health and Human Services. The department shall inquire into the conduct and management of the affairs of the same and the treatment of the members thereof, define the duties of the officers, fix their compensation, and make rules and regulations. The Board of Inquiry and Review shall prescribe rules of admission to such homes and in accordance with the provisions and objects of section 80-301.

Sec. 832. Section 80-306, Reissue Revised Statutes of Nebraska, is amended to read:

80-306. The Board of Inquiry and Review is empowered to check periodically on members of the homes to determine whether or not their physical or financial status has so changed since admission that they should no longer be maintained there. For the purpose of making such determination the board shall have power to subpoena witnesses and take testimony under oath relative to the corpus of estate, financial status, and income of any member. No specified amount, either as to income or accumulated reserve, shall be arbitrarily fixed for determining the eligibility of an applicant to membership or to continuing rights of membership, but each case shall be considered solely on its merits and the evidence presented. The board shall meet quarterly at one of the Nebraska veterans homes, or more often upon call of the administrator of either home for the consideration of any special problem. Recommendations of the board shall constitute authority for the administrator and Department of Public Institutions, the Department of Health and Human Services to deny further residence to members it finds should no longer be supported there.

Sec. 833. Section 80-307, Reissue Revised Statutes of Nebraska, is amended to read:

80-307. Nothing in section 80-305 or 80-306 shall be construed as limiting the authority vested with the Director of Public Institutions, Director of Health and Human Services to promulgate rules and regulations, not inconsistent herewith, for the administration of the homes. The director, in



conjunction with the Board of Inquiry and Review, is authorized and directed to make rules and regulations authorizing all members of a home to perform such duties in the home and on the institutional grounds as the member is physically able to perform. No member shall be excused from the performance of such duty without a disability statement signed by the physician of the home.

Sec. 834. Section 80-606, Reissue Revised Statutes of Nebraska, is amended to read:

80-606. Nothing in sections 80-601 to 80-606 shall be construed as conferring upon the Department of Public Institutions Department of Health and Human Services or other agency or officer of this state any power of licensing, supervision, inspection, or control over hospitals or other institutions operated by the United States Government or over the officers or employees therein.

Sec. 835. Section 81-101, Reissue Revised Statutes of Nebraska, is amended to read:

81-101. The civil administration of the laws of the state is vested in the Governor. For the purpose of aiding the Governor in the execution and administration of the laws, the executive and administrative work shall be divided into the following departments: (1) Department of Agriculture; (2) Department of Labor; (3) Department of Health; ~~(4) Department of Roads~~; ~~(5) Department of Water Resources~~; ~~(6)~~ (5) Department of Banking and Finance; ~~(7)~~ (6) Department of Insurance; ~~(8)~~ (7) Department of Motor Vehicles; ~~(9) Department of Social Services~~; ~~(10) Department of Public Institutions~~; ~~(11) Department of Administrative Services~~; ~~(12)~~ (9) Department of Economic Development; ~~(13)~~ (10) Department of Correctional Services; ~~(14)~~ (11) Nebraska State Patrol; and ~~(15) Department on Aging~~ (12) Department of Health and Human Services; (13) Department of Health and Human Services Regulation and Licensure; and (14) Department of Health and Human Services Finance and Support.

Sec. 836. Section 81-102, Reissue Revised Statutes of Nebraska, is amended to read:

81-102. The Governor shall appoint heads for the various departments, subject to confirmation by a majority vote of the members elected to the Legislature. Such appointments shall be submitted to the Legislature within sixty calendar days following the first Thursday after the first Tuesday in each odd-numbered year. The officers shall be designated as follows: (1) The Director of Agriculture for the Department of Agriculture; (2) the Commissioner of Labor for the Department of Labor; (3) the Director of Health for the Department of Health; ~~(4) the Director-State Engineer for the Department of Roads~~; ~~(5)~~ (4) the Director of Water Resources for the Department of Water Resources; ~~(6)~~ (5) the Director of Banking and Finance for the Department of Banking and Finance; ~~(7)~~ (6) the Director of Insurance for the Department of Insurance; ~~(8)~~ (7) the Director of Motor Vehicles for the Department of Motor Vehicles; ~~(9) the Director of Social Services for the Department of Social Services~~; ~~(10) the Director of Public Institutions for the Department of Public Institutions~~; ~~(11)~~ (8) the Director of Administrative Services for the Department of Administrative Services; ~~(12)~~ (9) the Director of Correctional Services for the Department of Correctional Services; ~~(13)~~ (10) the Director of Economic Development for the Department of Economic Development; ~~(14)~~ (11) the Superintendent of Law Enforcement and Public Safety for the Nebraska State Patrol; and ~~(15) the Director on Aging for the Department on Aging~~ (12) the Director of Health and Human Services for the Department of Health and Human Services; (13) the Director of Regulation and Licensure for the Department of Health and Human Services Regulation and Licensure; and (14) the Director of Finance and Support for the Department of Health and Human Services Finance and Support. Whoever shall be so nominated by the Governor and shall fail to receive the number of votes requisite for confirmation, shall not be subject to nomination or appointment for this or any other appointive state office requiring confirmation by the Legislature during the period for which his or her appointment was sought. In case of a vacancy in any of such offices during the recess of the Legislature, the Governor shall make a temporary appointment until the next meeting of the Legislature, when he or she shall nominate some person to fill such office. Any person so nominated who is confirmed by the Legislature, shall hold his or her office during the remainder of the term if a specific term has been provided by law, otherwise during the pleasure of the Governor subject to the provisions of this section; ~~PROVIDED~~, except any such officers may be removed by the Governor pursuant to Article IV of the Constitution of Nebraska.

Sec. 837. Section 81-502, Revised Statutes Supplement, 1995, is amended to read:

81-502. (1) It shall be the duty of the State Fire Marshal, under

authority of the Governor:

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

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

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

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

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

(iii) Licensed providers of programs or applicants for licenses to provide such programs, upon request of the Department of Social Services Department of Health and Human Services Regulation and Licensure, pursuant to section 71-1913. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other facilities or institutions which are mentioned in subdivision (1) of section 71-2017 or applicants for licenses for such facilities or institutions, upon request by the Department of Health Department of Health and Human Services Regulation and Licensure, pursuant to section 71-2022; and

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

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

(i) The prevention of fires;

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

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

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

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

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

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

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

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

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

(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101,

known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

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

Sec. 838. Section 81-502.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-502.01. For the purposes of assisting the State Fire Marshal in matters pertaining to the performance of his or her duties, there is hereby established the Nebraska Fire Safety Appeals Board. Such board shall consist of the following members: (1) A representative of the fire insurance industry with experience in fire prevention inspections, (2) an architect registered in this state, (3) a member of a board of education of a public school district, (4) a fire protection engineer, (5) a member of the inspection division of a paid fire department in this state, (6) an active member of a volunteer fire department in this state, (7) a representative of the Department of Health Department of Health and Human Services, (8) a representative of the Nebraska Hospital Association Nebraska Association of Hospitals and Health Systems, and (9) a representative of the Department of Social Services Department of Health and Human Services Regulation and Licensure. The members shall be appointed by the Governor and shall serve for a term of four years. Members serving on the advisory committee to the office of the State Fire Marshal on September 2, 1977, shall, after September 2, 1977, serve as members of the Nebraska Fire Safety Appeals Board and shall continue serving the terms to which they were appointed.

Sec. 839. Section 81-505.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-505.01. (1) The State Fire Marshal shall establish and assess fees not to exceed the actual costs for the performance of services by the State Fire Marshal or by qualified local fire prevention personnel to whom the State Fire Marshal has delegated authority to perform such services. Prior to establishing or altering such fees, the State Fire Marshal shall hold a public hearing on the question of the adoption of or change in fees. Notice of such hearing shall be given at least thirty days prior thereto (a) by publication in a newspaper having general circulation in the state and (b) by notifying in writing the head of any agency or department having jurisdiction over facilities that would be subject to the fees. Fees for services performed by the State Fire Marshal shall be paid to the State Fire Marshal and shall be remitted to the State Treasurer for credit to the State Fire Marshal Cash Fund. Fees for services performed by local fire prevention personnel shall be paid directly to the office of the local fire prevention personnel.

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

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

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

TOTAL VALUE OF PROPOSED	
STRUCTURE OR IMPROVEMENT	FEE
\$1 - \$5,000	\$5.00
\$5,001 - \$25,000	\$5.00 for the first \$5,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.

\$25,001 - \$50,000	\$15.00 for the first \$25,000.00 plus \$2.00 for each additional \$5,000.00 or fraction thereof.
\$50,001 - \$100,000	\$25.00 for the first \$50,000.00 plus \$1.00 for each additional \$5,000.00 or fraction thereof.
\$100,001 - \$200,000	\$35.00 for the first \$100,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof.
\$200,001 or more	\$50.00 for the first \$200,000.00 plus \$1.00 for each additional \$10,000.00 or fraction thereof, except that the total fee shall not exceed \$500.00.

(b) The fees set out in subdivision (a) of this subsection shall not be assessed or collected by any political subdivision to which the State Fire Marshal has delegated the authority to conduct such review and which reviews plans, blueprints, or shop drawings to determine compliance with such political subdivision's own fire safety regulations. Nothing in this subdivision shall be construed to prohibit such political subdivision from assessing or collecting a fee set by its governing board for such review.

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

Sec. 840. Section 81-601, Reissue Revised Statutes of Nebraska, is amended to read:

81-601. The Department of Health Department of Health and Human Services Regulation and Licensure shall have general supervision and control over matters relating to public health and sanitation, and shall provide for examination as provided in section 81-602, ~~enforce the provisions of sections 81-601 to 81-604 and 71-2201 to 71-2512;~~ and have supervision over all matters of quarantine and quarantine regulations.

Sec. 841. Section 81-601.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-601.01. The Bureau of Examining Boards shall be under the supervision of the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 842. Section 81-602, Reissue Revised Statutes of Nebraska, is amended to read:

81-602. The Department of Health Department of Health and Human Services Regulation and Licensure shall have the right at all times to inspect the equipment and methods of teaching in all medical colleges and medical schools of the state, and shall have the power to refuse examination to the graduates of any school which, on proper notice and hearing, shall be adjudged not a medical college or medical school in good standing as defined by the laws of this state.

Sec. 843. Section 81-604.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-604.01. The Department of Social Services, the Department of Public Institutions, any other Any local or state agency or department, or any private facility involved in arranging or supervising placements for those persons requiring care or supervision, shall notify the Department of Health Department of Health and Human Services Regulation and Licensure when there is reason to believe that the total number of persons served in any institution, facility, place, or building exceeds three individuals and that such facility is not currently licensed by the Department of Health Department of Health and Human Services Regulation and Licensure. The department shall investigate or inspect such complaints pursuant to sections 71-2017 to 71-2029 and 71-5901 to 71-5909.

Sec. 844. Section 81-604.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-604.02. For the purpose of assisting the citizens of the state in receiving benefits under the federal medicare law, the State of Nebraska authorizes the Department of Health Department of Health and Human Services Regulation and Licensure to act as the survey and certification agency for the medicare program in Nebraska and to contract to perform such functions with the federal agency responsible for administration of the medicare program and to enter into such other agreements as may be necessary to implement federal requirements. The department may also contract with the federal agency to perform survey and certification functions in accordance with the federal Clinical Laboratory Improvement Amendments of 1988.

Sec. 845. Section 81-604.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-604.03. The Department of Health Department of Health and Human Services Regulation and Licensure is hereby authorized to act as the survey and certification agency for the medicaid program and to enter into such agreements with the Department of Social Services Department of Health and Human Services Finance and Support as may be necessary to carry out its duties.

Sec. 846. Section 81-637, Reissue Revised Statutes of Nebraska, is amended to read:

81-637. As used in sections 81-637 to 81-640, unless the context otherwise requires:

(1) Cancer shall mean all malignant neoplasm regardless of the tissue of origin, including malignant lymphoma and leukemia;

(2) Smoking disease shall mean diseases whose causes are linked to smoking including, but not limited to, cardiovascular, pulmonary, and gastrointestinal diseases; and

(3) Director shall mean the ~~Director of Health~~ Director of Finance and Support.

Sec. 847. Section 81-638, Reissue Revised Statutes of Nebraska, is amended to read:

81-638. (1) The Legislature shall appropriate for each year from the Department of Health Department of Health and Human Services Finance and Support Cash Fund to the Department of Health Department of Health and Human Services Finance and Support an amount derived from one cent of the cigarette tax imposed by section 77-2602, less any amount appropriated from the fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. The director shall, after deducting expenses incurred in the administration of such funds, distribute such funds exclusively for grants and contracts for research of cancer and smoking diseases, for funding the cancer registry prescribed in sections 81-642 to 81-650, and for associated expenses of the Department of Health due to the establishment and maintenance of such cancer registry. Not more than two hundred thousand dollars shall be appropriated for funding the cancer registry and associated expenses. The University of Nebraska may receive such grants and contracts, and other postsecondary institutions having colleges of medicine located in the State of Nebraska may receive such contracts.

(2) The Legislature shall appropriate for each year from the Department of Health Department of Health and Human Services Finance and Support Cash Fund to the Department of Health Department of Health and Human Services Finance and Support for cancer research an amount derived from two cents of the cigarette tax imposed by section 77-2602 to be used exclusively for grants and contracts for research on cancer and smoking diseases. No amount shall be appropriated or used pursuant to this subsection for the operation and associated expenses of the cancer registry. Not more than one-half of the funds appropriated pursuant to this subsection shall be distributed to the University of Nebraska Medical Center for research in cancer and allied diseases and the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. The remaining funds available pursuant to this subsection shall be distributed for contracts with other postsecondary educational institutions having colleges of medicine located in Nebraska which have cancer research programs for the purpose of conducting research in cancer and allied diseases.

(3) Any contract between the Department of Health Department of Health and Human Services Finance and Support and another postsecondary educational institution for cancer research under subsection (2) of this section shall provide that:

(a) Any money appropriated for such contract shall only be used for cancer research and shall not be used to support any other program in the institution;

(b) Full and detailed reporting of the expenditure of all funds under the contract is required. The report shall include, but not be limited to, separate accounting for personal services, equipment purchases or leases, and supplies. Such reports shall be made available to the Legislature; and

(c) No money appropriated for such contract shall be spent for travel, building construction, or any other purpose not directly related to the research that is the subject of the contract.

Sec. 848. Section 81-642, Revised Statutes Supplement, 1995, is amended to read:

81-642. It is the intent of the Legislature to require the establishment and maintenance of a cancer registry for the State of Nebraska. This responsibility is delegated to the Department of Health Department of Health and Human Services Regulation and Licensure along with the authority to exercise the necessary powers to implement sections 81-642 to 81-650. To

insure an accurate and continuing source of data concerning cancer, all hospitals within the state shall make available to the Department of Health Department of Health and Human Services Regulation and Licensure upon its request, at least once a year, information contained in the medical records of patients who have cancer within such time following its diagnosis as the department shall require. Any medical doctor, osteopathic physician, or dentist within the state shall make such information available to the department upon request by the department. This cancer registry should provide a central data bank of accurate, precise, and current information which medical authorities state will assist in the research for the prevention, cure, and control of cancer. The information contained in the cancer registry may be used as a source of data for scientific and medical research. Any information released from the cancer registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

Sec. 849. Section 81-651, Reissue Revised Statutes of Nebraska, is amended to read:

81-651. (1) The Department of Health Department of Health and Human Services may provide visiting community nursing services or home health services to persons living in the state and may charge fees for such services. The department shall not be exempt from licensure under subsection (19) of section 71-2017.01.

(2) The department may organize, license, and operate home health agencies to assist in providing services under subsection (1) of this section.

(3) The department (a) may employ necessary personnel, including, but not limited to, licensed nurses, physical therapists, physical therapy assistants, audiologists, speech-language pathologists, communication assistants, occupational therapists, occupational therapy assistants, home health aides, homemakers, respiratory care practitioners, nutritionists, social workers, and supervisory personnel, and may purchase equipment and materials necessary to maintain an effective program or (b) may contract with individuals or licensed agencies to obtain such services or to assist in providing services under subsection (1) of this section.

(4) The department may contract with any public, private, for-profit, or nonprofit agency or individual to provide home health services through any licensed home health agency created under subsection (2) of this section.

Sec. 850. Section 81-652, Reissue Revised Statutes of Nebraska, is amended to read:

81-652. The Department of Health Department of Health and Human Services may (1) charge and receive fees, (2) accept third-party reimbursements or matching funds from any federal governmental agency, private corporation, or other public or private organization or entity, and (3) accept grants or donations from any public or private agency, organization, or entity for services provided by any home health agency operated by the department. Such funds shall be paid to the state treasury and credited to the Department of Health Department of Health and Human Services Cash Fund.

Sec. 851. Section 81-654, Reissue Revised Statutes of Nebraska, is amended to read:

81-654. For purposes of sections 81-653 to 81-661:

(1) Brain injury registry shall mean the system of reporting established by sections 81-653 to 81-661 in which cases of brain or head injury in this state are reported and recorded in order to achieve the goals of statistical identification and planning for treatment and rehabilitation of persons with brain or head injury and prevention of such injury;

(2) Brain or head injury shall mean clinically evident neurotrauma resulting directly or indirectly from closed or penetrating brain or head trauma, infection, febrile condition, anoxia, vascular lesions, toxin, or spinal cord injury, not primarily related to congenital or degenerative conditions, chemical dependency, or aging processes, which impairs mental, cognitive, behavioral, or physical functioning; and

(3) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure.

Sec. 852. Section 81-661, Reissue Revised Statutes of Nebraska, is amended to read:

81-661. The Department of Correctional Services, the Department of Health and its division of developmental disabilities Department of Health and Human Services Regulation and Licensure, the Department of Public Institutions Department of Health and Human Services, the Department of Social Services, the State Department of Education and its divisions of special education and vocational rehabilitation, and all other state agencies which serve persons with brain or head injury shall recognize brain or head injury as a distinct



disability and shall identify those persons with brain or head injury among the persons served by the agency. Such agencies shall utilize the brain injury registry for improvement of state services for persons with brain or head injury.

Sec. 853. Section 81-663, Reissue Revised Statutes of Nebraska, is amended to read:

81-663. The Legislature finds that there is a need to establish a framework for consistent release of medical record and health information from the many registries and data bases the Department of Health Department of Health and Human Services Regulation and Licensure maintains for the State of Nebraska. The purpose of the release of data is to encourage research which will protect the health and safety of the citizens of Nebraska by assisting in the prevention, cure, and control of specific diseases or injuries.

Sec. 854. Section 81-664, Reissue Revised Statutes of Nebraska, is amended to read:

81-664. For purposes of sections 81-663 to 81-675:

(1) Aggregate data shall mean data contained in the medical record and health information registries maintained by the department which is compiled in a statistical format and which does not include patient-identifying data;

(2) Approved researcher shall mean an individual or entity which is approved by the department pursuant to section 81-666 to obtain access to data contained in the medical record and health information registries maintained by the department to assist in the scientific or medical research for the prevention, cure, or control of a disease or injury process;

(3) Case-specific data shall mean data contained in the medical record and health information registries concerning a specific individual other than patient-identifying data;

(4) Department shall mean the Department of Health Department of Health and Human Services Regulation and Licensure;

(5) Medical record and health information registry shall mean the system of reporting certain medical conditions occurring in this state, as prescribed by law, which are reported and recorded in order to achieve the goals of prevention, cure, and control through research and education, and shall include the birth defects registry established in section 71-646, the cancer registry established in sections 81-642 to 81-650, and the brain injury registry established in sections 81-653 to 81-661;

(6) Patient-identifying data shall mean the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient; and

(7) Research shall mean study specific to the diseases or injuries for which access to data is requested and which is dedicated to the prevention, cure, or control of the diseases or injuries.

Sec. 855. Section 81-676, Reissue Revised Statutes of Nebraska, is amended to read:

81-676. The Department of Health Department of Health and Human Services Regulation and Licensure shall establish a health care data analysis section to conduct data and research initiatives in order to improve the efficiency and effectiveness of health care in Nebraska.

Sec. 856. Section 81-677, Reissue Revised Statutes of Nebraska, is amended to read:

81-677. The Department of Health Department of Health and Human Services Regulation and Licensure, through the health care data analysis section, shall:

(1) Conduct research using existing health care data bases and promote applications based on existing research;

(2) Work closely with health plans and health care providers to promote improvements in health care efficiency and effectiveness;

(3) Participate as a partner or sponsor of private-sector initiatives that promote applied research on health care delivery, outcomes, costs, quality, and management; and

(4) Provide technical assistance as needed.

Sec. 857. Section 81-678, Reissue Revised Statutes of Nebraska, is amended to read:

81-678. Data and research initiatives by the health care data analysis section of the Department of Health Department of Health and Human Services Regulation and Licensure shall:

(1) Promote applied research on health care delivery, outcomes, costs, quality, and management;

(2) Conduct research and promote health care applications based on scientifically sound and statistically valid methods;

(3) Emphasize data that is useful and relevant and is not redundant

of existing data;

(4) Be structured to minimize the administrative burden on health plans, health care providers, and the health care delivery system; and

(5) Promote continuous improvement in the efficiency and effectiveness of health care delivery.

Sec. 858. Section 81-679, Reissue Revised Statutes of Nebraska, is amended to read:

81-679. Data and research initiatives by the health care data analysis section of the Department of Health Department of Health and Human Services Regulation and Licensure related to public-sector health care programs shall:

(1) Assist the state's current health care financing and delivery programs to deliver and purchase health care in a manner that promotes improvements in health care efficiency and effectiveness;

(2) Assist the state in its public health activities, including the analysis of disease prevalence and trends and the development of public health responses;

(3) Assist the state in developing and refining its overall health policy, including policy related to health care costs, quality, and access; and

(4) Provide health care information that allows the evaluation of state health care financing and delivery programs.

Sec. 859. Section 81-680, Reissue Revised Statutes of Nebraska, is amended to read:

81-680. (1) To carry out the duties assigned under sections 81-677 to 81-679, the Department of Health Department of Health and Human Services Regulation and Licensure may contract with or provide grants to private-sector entities.

(2) The health care data analysis section of the Department of Health Department of Health and Human Services Regulation and Licensure shall negotiate with private-sector organizations currently collecting data on specific health conditions of interest to the section in order to obtain required data in a cost-effective manner and minimize administrative costs. The section shall support linkages between existing private-sector data bases and shall consider and implement methods to streamline data collection in order to reduce public-sector and private-sector administrative costs.

(3) The health care data analysis section shall use existing public-sector data bases, such as those existing for the medical assistance program and medicare, to the greatest extent possible. The section shall support linkages between existing public-sector data bases and consider and implement methods to streamline public-sector data collection in order to reduce public-sector and private-sector administrative costs.

Sec. 860. Section 81-829.73, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.73. Any person who fraudulently or willfully makes a misstatement of fact in connection with an application for financial assistance under sections ~~68-703~~, 81-829.42, 81-829.55, and 81-829.69 to 81-829.74 shall, upon conviction of each offense, be subject to a fine of not more than five thousand dollars, or imprisonment in the county jail for not more than one year, or both.

Sec. 861. Section 81-829.74, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.74. The State of Nebraska, by the adoption of sections ~~68-703~~, 81-829.42, 81-829.55, and 81-829.69 to 81-829.74, assents to the provisions of the federal Disaster Relief Act of 1974, Public Law 93-288, 93rd Congress, insofar as such provisions are permissible under the Constitution of the State of Nebraska.

Sec. 862. Section 81-1021, Reissue Revised Statutes of Nebraska, is amended to read:

81-1021. (1) All motor vehicles acquired by the State of Nebraska shall be indelibly and conspicuously lettered, in plain letters of a contrasting color or reflective material:

(a) On each side thereof with the words State of Nebraska and following such words the name of whatever board, department, bureau, division, institution, including the University of Nebraska or state college, office, or other state expending agency of the state to which the motor vehicle belongs; and

(b) On the back thereof with the words State of Nebraska.

(2) This section shall not apply to motor vehicles used or controlled by:

(a) The Nebraska State Patrol, the Public Service Commission, the Game and Parks Commission, deputy state sheriffs employed by the Nebraska



Brand Committee and State Fire Marshal for state law enforcement purposes, inspectors employed by the Nebraska Liquor Control Commission, and persons employed by the Tax Commissioner for state revenue enforcement purposes, the exemption for state law enforcement purposes and state revenue enforcement purposes being confined strictly to the seven agencies specifically named;

(b) ~~The Department of Public Institutions~~ Department of Health and Human Services or the Department of Correctional Services for the purpose of apprehending and returning escaped offenders or parole violators to facilities in the Department of Correctional Services and transporting offenders and personnel of the Department of Correctional Services and patients and personnel of the Division of Medical Services who are engaged in off-campus program activities;

(c) The Military Department;

(d) Vocational rehabilitation counselors and the ~~Department of Health Department of Health and Human Services~~ for the purposes of communicable disease control, for the prevention and control of those communicable diseases which endanger the public health, or used by such ~~department~~ the Department of Health and Human Services Regulation and Licensure in the enforcement of drug control laws or for other investigation purposes;

(e) The Department of Agriculture for special investigative purposes; and

(f) The Nebraska Motor Vehicle Industry Licensing Board for investigative purposes.

Sec. 863. Section 81-1108.27, Reissue Revised Statutes of Nebraska, is amended to read:

81-1108.27. The Board of Regents of the University of Nebraska is authorized to furnish and to enter into agreements with the ~~Department of Public Institutions~~ Department of Health and Human Services and the Department of Correctional Services to furnish a supply of electric current to such departments at the line now maintained or hereafter constructed between the electric power plant at the Department of Correctional Services adult correctional facility and the State Capitol, which power shall be furnished by the heating plant located upon the city campus of the University of Nebraska at Lincoln, except ~~PROVIDED~~, that such electrical service to the ~~Department of Public Institutions~~ Department of Health and Human Services and the Department of Correctional Services for distribution to other state buildings and institutions shall be furnished only if the same may be generated and furnished without impairment or reduction of the power necessary to proper and efficient operation of the University of Nebraska and the State Capitol, including the executive mansion.

Sec. 864. Section 81-1108.28, Reissue Revised Statutes of Nebraska, is amended to read:

81-1108.28. The ~~Department of Public Institutions~~ Department of Health and Human Services and the Department of Correctional Services are authorized to furnish and to enter into agreements with the Board of Regents of the University of Nebraska to furnish a supply of electric current to the Board of Regents of the University of Nebraska at the line now maintained, or hereafter constructed, between the electric power plant at the University of Nebraska and the State Capitol, which power shall be furnished by the electric power plant located at the Department of Correctional Services adult correctional facility, except ~~PROVIDED~~, that such electrical service to the Board of Regents shall be furnished only if the same may be generated and furnished without impairment or reduction of the power necessary to proper and efficient operation of state buildings and institutions dependent upon the Department of Correctional Services adult correctional facility power plant.

Sec. 865. Section 81-1139.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-1139.01. Until June 30, 1993, the Department of Administrative Services shall be limited to the same rental rate on the Stone Office Building at the Norfolk Regional Center as existed on January 1, 1992. ~~The Department of Social Services~~ Department of Health and Human Services Finance and Support shall be limited to reimbursement from the counties maintaining office space in the Stone Office Building pursuant to section 68-130 in the same amount such counties paid for rental of such space on January 1, 1992.

Sec. 866. Section 81-1281, Reissue Revised Statutes of Nebraska, is amended to read:

81-1281. (1) The Department of Economic Development shall establish a comprehensive housing affordability strategy. The strategy shall identify needs, consider issues, and make recommendations regarding housing affordability, housing availability, housing accessibility, and housing quality in Nebraska. The department shall submit the strategy to the Governor

and the Clerk of the Legislature by October 1, 1991.

(2) The department shall establish a housing advisory committee consisting of individuals and representatives of groups involved with housing issues in Nebraska to assist with the establishment of the strategy. The department shall work with the Governor's Policy Research Office, the Department of Social Services, the Department of Public Institutions, the Department of Health, Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Banking and Finance, the Nebraska Investment Finance Authority, and any other public or private agency involved in addressing housing needs in Nebraska.

(3) The strategy shall:

(a) Describe the state's estimated housing needs for the ensuing five-year period and the need for assistance for different types of tenure and for different categories of residents such as very-low-income, low-income, and moderate-income persons, the elderly, single persons, large families, residents of nonmetropolitan areas, and other categories determined to be appropriate by the committee;

(b) Describe the nature and extent of homelessness in the state, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness and a description of the strategy for (i) helping low-income families avoid homelessness, (ii) addressing the emergency shelter and transitional housing needs of the homeless, including an inventory of facilities and services that meet such needs in Nebraska, and (iii) helping homeless persons make the transition to permanent housing;

(c) Describe significant characteristics of the housing market;

(d) Explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in Nebraska are affected by public policies, including tax policies affecting land and other property, land-use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment;

(e) Explain the institutional structure, including private industry, nonprofit organizations, and public institutions through which the state will carry out the strategy, assessing the strengths and gaps and describing what will be done to overcome any gaps;

(f) Describe the means of coordination and cooperation among the units of state and local government in the development and implementation of the strategy;

(g) Establish standards and procedures for monitoring housing activities undertaken because of the strategy; and

(h) Include any other information on housing in Nebraska deemed relevant by the Department of Economic Development or the committee.

Sec. 867. Section 81-1316, Reissue Revised Statutes of Nebraska, is amended to read:

81-1316. (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

(a) All personnel of the office of the Governor;

(b) All personnel of the office of the Lieutenant Governor;

(c) All personnel of the office of the Secretary of State;

(d) All personnel of the office of the State Treasurer;

(e) All personnel of the office of the Attorney General;

(f) All personnel of the office of the Auditor of Public Accounts;

(g) All personnel of the Legislature;

(h) All personnel of the court systems;

(i) All personnel of the Board of Educational Lands and Funds;

(j) All personnel of the Public Service Commission;

(k) All personnel of the Nebraska Brand Committee;

(l) All personnel of the Commission of Industrial Relations;

(m) All personnel of the State Department of Education;

(n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;

(o) All personnel of the University of Nebraska;

(p) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office; and

(q) All agency heads.

(2) At each agency head's discretion, up to the following number of positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
Less than 25	0

25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
Over 1000	5
<u>1001 to 2000</u>	5
<u>2001 to 3000</u>	8
<u>3001 to 4000</u>	11
<u>4001 to 5000</u>	14
<u>Over 5000</u>	17

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head.

In no case shall a current state employee's career protections or coverage by personnel rules and regulations be revoked without the prior written agreement of such employee.

Sec. 868. Section 81-15,103, Revised Statutes Supplement, 1995, is amended to read:

81-15,103. (1) For licensed activities involving disposal of low-level radioactive waste, the council shall adopt and promulgate rules and regulations which require a licensee to provide an adequate surety or other financial arrangement sufficient to accomplish any necessary corrective action or cleanup on real or personal property caused by releases of radiation from a disposal site during the operational life of the facility and to comply with the requirements for decontamination, decommissioning, site closure, and stabilization of sites, and structures and equipment used in conjunction with such licensed activity, in the event the licensee abandons the facility or defaults for any reason in performing its operational or other such requirements. Any arrangement which constitutes self-insurance shall not be allowed. In addition to the surety requirements, the licensee shall purchase property and third-party liability insurance and pay the necessary periodic premiums at all times in such amounts as determined by the council pursuant to rules and regulations adopted and promulgated pursuant to the Low-Level Radioactive Waste Disposal Act.

(2) All sureties required pursuant to subsection (1) of this section which are forfeited shall be paid to the department and remitted to the State Treasurer for credit to the Radiation Site Closure and Reclamation Fund which is hereby created. Any money in the fund may be expended by the department as necessary to complete the requirements on which licensees have defaulted. Money in this fund shall not be used for normal operating expenses of the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) For licensed activities involving the disposal of low-level radioactive waste, the council shall adopt and promulgate rules and regulations which require a licensee, before termination of the license, to make available such funding arrangements as may be necessary to provide for custodial care.

(4) All funds collected from licensees pursuant to subsection (3) of this section and subsection (1) of section 81-15,101 shall be paid to the department and remitted to the State Treasurer for credit to the Radiation Custodial Care Fund which is hereby created. All interest accrued on money deposited in the fund may be expended by the department for the continuing custodial care, maintenance, and other care of facilities from which such funds are collected as necessary for protection of the public health, safety, and environment. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(5) The department may, by contract, agreement, lease, or license with the Department of Health Department of Health and Human Services Regulation and Licensure, provide for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site subject to this section as needed to carry out the purposes of this section.

Sec. 869. Section 81-15,170, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,170. The Nebraska Environmental Trust Board is hereby created. The board shall consist of the Director of Environmental Quality, the Director of Health Director of Regulation and Licensure, the Director of Water Resources, the Director of Natural Resources, the Director of

Agriculture, the secretary of the Game and Parks Commission, and nine citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. Three appointees shall be chosen from each of the three congressional districts. For administrative purposes only, the board shall be part of the Game and Parks Commission.

Sec. 870. Section 81-2205, Reissue Revised Statutes of Nebraska, is amended to read:

81-2205. Committee shall mean the Department on Aging Advisory Committee ~~Department of Health and Human Services Advisory Committee on Aging.~~

Sec. 871. Section 81-2206, Reissue Revised Statutes of Nebraska, is amended to read:

81-2206. Department shall mean the Department on Aging ~~created in section 81-2213~~ Department of Health and Human Services.

Sec. 872. Section 81-2207, Reissue Revised Statutes of Nebraska, is amended to read:

81-2207. Director shall mean the Director on Aging ~~Director of Health and Human Services appointed by the Governor; with the advice and consent of the Legislature; or such officer of the agency~~ Department of Health and Human Services as he or she may designate to carry out in whole or in part the administration of the Nebraska Community Aging Services Act.

Sec. 873. Section 81-2213, Reissue Revised Statutes of Nebraska, is amended to read:

81-2213. There is hereby created the Department on Aging which The Department of Health and Human Services shall have the following powers and duties:

(1) To develop, approve, and submit to the Governor a two-year, three-year, or four-year state plan on aging, as determined by the department, for purposes of administering grant funds allocated to the state under the federal Older Americans Act, as now or hereafter amended, or administering state funds allocated to the Nebraska Community Aging Services Act;

(2) To cooperate with similar departments, commissions, or councils in the federal government and in other states;

(3) To adopt and promulgate rules, regulations, and bylaws governing its procedure and activities and as necessary to carry out the policies of the department and the policies prescribed by the Administration on Aging pursuant to the federal Older Americans Act, as now or hereafter amended;

(4) To create committees to aid in the discharge of its powers and duties;

(5) To cooperate with and assist other state and local governmental agencies and officials on matters relating to services for older individuals;

(6) To divide the state into planning-and-service areas as provided in section 71-5002 for mental health regions, except that Regions III and V may each be divided into two planning-and-service areas with boundaries as established by the department for planning-and-service areas in existence in those regions on July 1, 1982;

(7) To establish minimum standards for program operations and to adopt and promulgate rules and regulations for the performance of area agencies on aging and for any services provided by such area agencies on aging which are funded in whole or in part under the Nebraska Community Aging Services Act or the federal Older Americans Act, as now or hereafter amended;

(8) To require the submission of a one-year and a five-year area plan and budget by each area agency on aging or agency seeking designation as an area agency on aging. Such plans and budgets shall be submitted sixty days prior to the start of each fiscal year in accordance with the uniform area plan format and other instructions issued by the department;

(9) To review and approve a one-year and a five-year area plan and budget for the support of each area agency on aging and the provision of eligible activities and services as defined in section 81-2222;

(10) To adopt and submit to the Legislature a community aging services budget;

(11) To review the performance of each area agency on aging and, based on the department-approved area plan and budget, to determine the continued designation or the withdrawal of the designation of an area agency on aging receiving or requesting resources through the state or under the Nebraska Community Aging Services Act or the federal Older Americans Act, as now or hereafter amended. After consultation with the director of the area agency on aging and the governing unit of the area agency on aging, the

department may withdraw a designation when it can be shown that federal or state laws, rules, or regulations have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or older individuals are not receiving appropriate services within available resources. Withdrawal of a designation may be appealed to the director. Upon withdrawal of a designation, the department may temporarily perform all or part of the functions and responsibilities of the area agency on aging, may designate another agency to perform such functions and responsibilities identified by the department until the designation of a new area agency on aging, and, when deemed necessary, may temporarily deliver services to assure continuity;

(12) To conduct continuing studies and analyses of the problems faced by older individuals within the state and develop such recommendations for administrative or legislative action as appear necessary;

(13) To develop grants and plans, enter into contracts, accept gifts, grants, and federal funds, and do all things necessary and proper to discharge these powers and duties;

(14) To accept and administer any other programs or resources delegated, designated, assigned, or awarded to the department from public or private sources;

(15) To report and make recommendations to the Governor and the Legislature on the activities of the department and the committee and improvements or additional resources needed to promote the general welfare of older individuals in Nebraska. Each member of the Legislature shall receive a copy of the report; and

(16) Such other powers and duties necessary to effectively implement the Nebraska Community Aging Services Act.

Sec. 874. Section 81-2226, Reissue Revised Statutes of Nebraska, is amended to read:

81-2226. In the event of a documented malfeasance on the part of any area agency on aging in the administration of its area plan, and the failure of the governing unit of the area agency to take corrective action within a reasonable time, the director shall, with the advice of the Department on Aging Advisory Committee Department of Health and Human Services Advisory Committee on Aging, terminate funding to the area agency governing unit by disapproving the area plan for that area agency on aging.

Sec. 875. Section 81-2229, Reissue Revised Statutes of Nebraska, is amended to read:

81-2229. It is the intent of the Legislature that:

(1) The state establish a statewide system of care management units through the area agencies on aging to aid in the coordination of the delivery of a continuum of services targeted primarily to the state's older population;

(2) The continuum of services include the proper utilization of all available care resources, including community-based services and institutionalization, to ensure that persons are receiving, when reasonably possible, the level of care that best matches their level of need;

(3) The Department of Social Services Department of Health and Human Services Finance and Support apply for and implement a Title XIX medicaid waiver as a way to provide care management services to medicaid clients and to control the rising costs of medicaid; and

(4) The Department on Aging Department of Health and Human Services develop a uniform method for data collection by care management units.

Sec. 876. Section 81-2230, Reissue Revised Statutes of Nebraska, is amended to read:

81-2230. The purpose of sections 81-2229 to 81-2236 81-2235 shall be to provide for care management units which include ongoing consultation, assessment, care plan development, referral, and review for individuals, primarily older Nebraskans, in need of long-term care. With the individual's approval, the care management unit shall help coordinate the developed plan of care using the most appropriate available public and private resources to meet the individual's long-term care needs.

Sec. 877. Section 81-2231, Reissue Revised Statutes of Nebraska, is amended to read:

81-2231. The care management units shall be certified by the Department on Aging Department of Health and Human Services which shall adopt and promulgate rules and regulations within two hundred forty days of August 30, 1987, providing standards for certification. Such standards shall be developed in consultation with appropriate state agencies and professional organizations and shall provide that:

(1) The care management units shall be subject to periodic review by the department;

(2) The care management units shall provide an assessment of an

individual's entire range of needs, including, but not limited to, functional, psychosocial, and environmental needs;

(3) The care management units shall develop a long-term care plan for each client in consultation with the individual and if possible his or her family utilizing and coordinating available and appropriate public and private resources;

(4) The care management units shall periodically monitor the delivery of services to each client and review the individual's plan to determine if the plan remains appropriate;

(5) The care management units shall be operated separately from any direct care programs provided by the area agencies on aging; and

(6) A standardized long-term care assessment document shall be developed that incorporates, when reasonably possible, (a) assessment procedures currently used by area agencies on aging and (b) assessment criteria designed to reduce duplication of effort with related long-term care services, both public and private, including assessment material necessary to determine service eligibility by the Department of Social Services Department of Health and Human Services.

Sec. 878. Section 81-2232, Reissue Revised Statutes of Nebraska, is amended to read:

81-2232. Within sixty days of the adoption and promulgation of the standards for certification by the Department on Aging Department of Health and Human Services, each area agency on aging shall submit to the department for approval a plan of operation to either provide and supervise or subcontract for at least one certified care management unit to provide all eligible individuals residing in its planning-and-service area with long-term care management services. Within thirty days of receipt of a plan for approval, the department shall notify the area agency on aging of its acceptance or denial of the plan. If the plan is denied, the department shall give the reasons for denial and the area agency on aging shall submit a revised plan. If the area agency on aging does not submit a revised plan within thirty days of the denial, the Department on Aging Department of Health and Human Services may contract with another public or private entity to serve that planning-and-service area.

Sec. 879. Section 81-2233, Reissue Revised Statutes of Nebraska, is amended to read:

81-2233. The Department on Aging Department of Health and Human Services shall submit an annual report on care management units to the Governor and the Legislature.

Sec. 880. Section 81-2234, Reissue Revised Statutes of Nebraska, is amended to read:

81-2234. (1) Individuals who have family income below three hundred percent of a poverty level determined by the Department on Aging Department of Health and Human Services based on any federal poverty index or similar guidelines shall pay from zero to ninety percent of the fee for the services provided by a care management unit. The fee scale shall be adopted and promulgated as rules and regulations by the department and shall reflect the income range of individuals.

(2) A care management unit may receive reimbursement from state and federal government programs which allow for reimbursement for care management or case management services.

(3) Individuals not covered by subsection (1) or (2) of this section shall pay the full fee for services provided by a care management unit.

Sec. 881. Section 81-2235, Reissue Revised Statutes of Nebraska, is amended to read:

81-2235. (1) Each care management unit may be reimbursed by the Department on Aging Department of Health and Human Services for costs not paid for by the individual or through other reimbursement specified in section 81-2234. Reimbursement by the department shall be based on actual casework time units expended on all care management services provided and shall include expenses for personnel, administration and planning, client eligibility review, contractual services, and necessary support services and other necessary actual and indirect costs. Standardized rates of reimbursement shall be adopted and promulgated by the department and shall be adjusted at least every three years.

(2) Appropriations for reimbursement by the department for services provided under sections 81-2229 to 81-2236 81-2235 and for the costs of the department to administer the program shall be appropriated separately from funds appropriated under the Nebraska Community Aging Services Act.

(3) Funds appropriated under this section shall not be used to replace funds appropriated under the Nebraska Community Aging Services Act and granted to the area agencies on aging prior to August 30, 1987, and used to

provide case management or care management services in their planning-and-service area, except that such funds may be replaced by non-Nebraska Community Aging Services funds that are obtained subsequent to August 30, 1987, as allowed under rules and regulations adopted and promulgated by the Department on Aging Department of Health and Human Services.

Sec. 882. Section 81-2239, Reissue Revised Statutes of Nebraska, is amended to read:

81-2239. Department shall mean the Department on Aging Department of Health and Human Services.

Sec. 883. Section 81-2241, Reissue Revised Statutes of Nebraska, is amended to read:

81-2241. Director shall mean the Director on Aging Director of Health and Human Services.

Sec. 884. Section 81-2250, Reissue Revised Statutes of Nebraska, is amended to read:

81-2250. The department shall establish a long-term care ombudsman program consisting of the state long-term care ombudsman and any local long-term care ombudsman program. The program, as approved and administered by the department, shall:

(1) Investigate and resolve complaints not reportable under the Adult Protective Services Act made by or on behalf of older individuals who are patients, residents, or clients of long-term care facilities relating to action, inaction, or decisions of providers of long-term care services or their representatives, of public agencies, or of social service agencies which may adversely affect the health, safety, welfare, or rights of such older individuals. The director shall adopt and promulgate rules and regulations regarding the handling of complaints received under this section, including procedures for conducting investigations of complaints. The rules and regulations shall include procedures to ensure that no state long-term care ombudsman or ombudsman advocate investigates any complaint involving a provider with which the representative was once employed or associated;

(2) Provide for the training of the state long-term care ombudsman and ombudsman advocates and promote the development of citizen organizations to participate in the program, provide training to ombudsman advocates and staff of local long-term care ombudsman programs, issue certificates attesting to the successful completion of the prescribed training, and provide ongoing technical assistance to such local programs;

(3) Analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies with respect to long-term care facilities and services and recommend any changes in such laws, regulations, and policies deemed by the office long-term care ombudsman program to be appropriate;

(4) Establish a statewide, uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. The data shall be submitted to the Department of Health Department of Health and Human Services Regulation and Licensure at least on an annual basis;

(5) Prepare reports as requested by the director and provide policy, regulatory, and legislative recommendations to solve problems, resolve complaints, and improve the quality of care and life in long-term care facilities;

(6) Provide for public forums to discuss concerns and problems relating to action, inaction, or decisions that may adversely affect the health, safety, welfare, or civil rights of residents of long-term care facilities and their representatives, public agencies and entities, and social service agencies; and

(7) Provide information to public agencies, legislators, and others, as deemed necessary by the department, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities.

Sec. 885. Section 81-2255, Reissue Revised Statutes of Nebraska, is amended to read:

81-2255. (1) When abuse, neglect, or exploitation of an older individual who is a patient, resident, or client of a long-term care facility is suspected, the office long-term care ombudsman program shall make an immediate referral to the Department of Social Services Department of Health and Human Services or the appropriate law enforcement agency. The office long-term care ombudsman program shall coordinate with the Department of Social Services adult protective services or the appropriate law enforcement agency, if requested, pursuant to any investigation of such abuse, neglect, or exploitation.

(2) Any state agency or board which responds to a complaint against a long-term care facility or an individual employed by a long-term care facility that was referred to the agency or board by the office shall forward to the office copies of related inspection reports, plans of correction, and notice of any citations and sanctions levied against the long-term care facility or the individual.

Sec. 886. Section 81-2260, Reissue Revised Statutes of Nebraska, is amended to read:

81-2260. (1) Information relating to any complaints or investigation made pursuant to the Long-Term Care Ombudsman Act that discloses the identities of complainants, patients, residents, or clients shall remain confidential except:

(a) When disclosure is authorized in writing by the complainant, patient, resident, or client or the older individual's guardian or legal representative;

(b) When disclosure is necessary to an investigation of abuse, neglect, or exploitation and the disclosure is made to the Attorney General, the county attorney, the ~~Department of Health~~ Department of Health and Human Services Regulation and Licensure, or adult protective services of the Department of Social Services ~~Department of Health and Human Services~~;

(c) When disclosure is necessary for the provision of services to the patient, resident, or client and the patient, resident, or client is unable to express written or oral consent; or

(d) Upon court order.

(2) Access to the records and files of the office relating to any complaint or investigation made pursuant to the Long-Term Care Ombudsman Act shall be permitted only at the discretion of the state long-term care ombudsman, except that the identity of any complainant, witness, patient, resident, or client shall not be disclosed by such ombudsman except:

(a) When disclosure is authorized in writing by such complainant, witness, patient, resident, or client or the older individual's guardian or legal representative;

(b) Upon court order; or

(c) Pursuant to subsection (3) of this section.

(3) The records and files of the office shall be released to the ~~Department of Social Services~~ adult protective services of the Department of Health and Human Services if it so requests for purposes of the Adult Protective Services Act.

(4) The director shall have access to the records and files of the office to verify the effectiveness and quality of the long-term care ombudsman program.

Sec. 887. Section 81-2265, Reissue Revised Statutes of Nebraska, is amended to read:

81-2265. It is the intent of the Legislature that the ~~Department of Social Services~~ Department of Health and Human Services Finance and Support shall amend its current medicaid waiver to provide any federal funding which may be available for the purpose of a pilot project for preadmission screening and that the ~~Department of Social Services~~ Department of Health and Human Services Finance and Support shall contract with the ~~Department on Aging~~ Department of Health and Human Services to develop and implement such a pilot preadmission screening project.

Sec. 888. Section 81-2266, Revised Statutes Supplement, 1995, is amended to read:

81-2266. The ~~Department on Aging~~ Department of Health and Human Services, through its care management units, shall coordinate with the ~~Department of Social Services~~ and any other appropriate state agencies to establish a pilot project to prevent premature institutionalization of nursing facility medicaid-eligible applicants sixty-five years of age and older through preadmission screening. The ~~Department on Aging~~ shall examine the ~~preadmission screening process~~ utilized by the ~~Department of Public Institutions~~ and ~~Department of Health and Human Services~~ shall utilize such ~~process~~ preadmission screening process as is appropriate. The agencies ~~department~~ shall determine an urban area and a rural area for demonstration of the project. The pilot project shall be targeted toward areas of Nebraska with high nursing facility utilization. The ~~Department of Social Services~~ Department of Health and Human Services shall use the preadmission screening services of the pilot project in the demonstration areas.

This section shall terminate on June 30, 1997.

Sec. 889. Section 81-2267, Reissue Revised Statutes of Nebraska, is amended to read:

81-2267. The ~~Department on Aging~~ Department of Health and Human Services and the ~~Department of Health and Human Services Finance and Support~~



shall evaluate the pilot project for the effectiveness of using medicaid funds, any savings of those funds realized which can be used to serve the ever-growing number of frail and vulnerable older individuals in Nebraska, and the effectiveness of preadmission screening and care management to divert individuals from nursing facility admission who do not need that level of care.

Sec. 890. Section 81-2268, Reissue Revised Statutes of Nebraska, is amended to read:

81-2268. Services identified by care plans for those eligible for medical assistance whose care needs are appropriate for nursing facilities but whose needs can be met outside a nursing facility may be purchased with medicaid waiver funds available through the home and community-based waiver for the aged and disabled administered by the Department of Social Services, Department of Health and Human Services and the Department of Health and Human Services Finance and Support.

Sec. 891. Section 81-2269, Revised Statutes Supplement, 1995, is amended to read:

81-2269. (1) The Department on Aging, Department of Health and Human Services, through its care management units, shall coordinate with the Department of Social Services, the Department of Public Institutions, and other appropriate state agencies to establish a statewide project to prevent premature institutionalization of nursing facility medicaid-eligible applicants sixty-five years of age and older through preadmission screening. In any case in which a determination has not been made within forty-eight hours, the nursing facility applicant shall be deemed appropriate for nursing home admission until such time as preadmission screening is completed, notwithstanding that a preadmission screening has not been done. The Department of Social Services, Department of Health and Human Services shall use the preadmission screening services of the project.

(2) Subsection (1) of this section becomes operative on July 1, 1997.

Sec. 892. Section 81-2270, Reissue Revised Statutes of Nebraska, is amended to read:

81-2270. Services identified by care plans for those not eligible for services provided through the home and community-based waiver for the aged and disabled may be purchased with funds appropriated through sections 81-2265 to 81-2271, based on a sliding-fee scale. The Department on Aging, Department of Health and Human Services shall adopt and promulgate rules and regulations to establish procedures and standards to implement this section of the pilot project for preadmission screening.

Sec. 893. Section 81-2271, Reissue Revised Statutes of Nebraska, is amended to read:

81-2271. The Department of Social Services, in consultation and coordination with the Department on Aging, Department of Health and Human Services shall adopt and promulgate rules and regulations to establish procedures and standards for the Department of Public Institutions, Department of Social Services, and Department on Aging to implement the intent of sections 81-2265 to 81-2271.

Sec. 894. Section 83-101.08, Reissue Revised Statutes of Nebraska, is amended to read:

83-101.08. The Director of Public Institutions, Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support shall consult and cooperate with the Department of Social Services and the Department of Correctional Services so as to coordinate in an effective manner the activities of the department departments with those related activities affecting the welfare of persons which are the responsibility of the Department of Social Services, Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support, and the Department of Correctional Services.

Sec. 895. Section 83-101.14, Revised Statutes Supplement, 1995, is amended to read:

83-101.14. The Department of Public Institutions, Department of Health and Human Services with the assistance of the Commission for the Hearing Impaired shall adopt and promulgate rules and regulations to define criteria and standards for access by eligible hearing-impaired persons to mental health, alcoholism, and drug abuse treatment programs.

Sec. 896. Section 83-107.01, Reissue Revised Statutes of Nebraska, is amended to read:

83-107.01. The official names of the state institutions under the supervision of the Department of Public Institutions, Department of Health and

Human Services shall be as follows: (1) Beatrice State Developmental Center, (2) Lincoln Regional Center, (3) Norfolk Regional Center, (4) Hastings Regional Center, and (5) Nebraska Veterans' Home.

Sec. 897. Section 83-108, Reissue Revised Statutes of Nebraska, is amended to read:

83-108. The Department of Public Institutions Department of Health and Human Services shall have oversight and general control of the Beatrice State Developmental Center, ~~the Nebraska Orthopedic Hospital,~~ the Nebraska Veterans' Home, the hospitals for the mentally ill, such skilled nursing care and intermediate care facilities as may be established by the department, and all charitable institutions.

Sec. 898. Section 83-108.04, Reissue Revised Statutes of Nebraska, is amended to read:

83-108.04. (1) In addition to the institutions established by law, the Department of Correctional Services Department of Health and Human Services may maintain or use the following facilities for the care of children in its legal custody who have been adjudged to be as described in subdivision (1), (2), (3)(b), or (4) of section 43-247: (a) Receiving homes to be used for the temporary care of children; (b) foster homes; (c) group homes; and (d) other facilities and services, including forestry or conservation camps for the training and treatment of children.

(2) The Department of Public Institutions or the Department of Correctional Services Department of Health and Human Services also may use other public facilities or contract for the use of private facilities for the care and treatment of children in its legal custody. Placement of children in private or public facilities not under its jurisdiction shall not terminate the legal custody of the department. No state funds may be paid for care of a child in the home of a parent.

Sec. 899. Section 83-109, Reissue Revised Statutes of Nebraska, is amended to read:

83-109. The Department of Public Institutions Department of Health and Human Services 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 (1) to the department, a legislative committee, the Governor, any federal agency requiring medical records to adjudicate claims for federal benefits, and any public or private agency under contract to provide facilities, programs, and patient services, (2) upon order of a judge or court, or (3) in accordance with sections 20-161 to 20-166. 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. 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 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. 900. Section 83-111, Reissue Revised Statutes of Nebraska, is amended to read:

83-111. The Department of Public Institutions Department of Health and Human Services shall prepare an estimate of the appropriations necessary for the support and needed improvements of the institutions under its charge, and a report of their operation during the preceding biennium, for the use of the Legislature. The estimate shall be printed, and may include a report of the results of investigation of methods of institution management and of

treatment of patients and inmates, with suggestions for the betterment of any or all conditions.

Sec. 901. Section 83-112, Reissue Revised Statutes of Nebraska, is amended to read:

83-112. (1) The Department of Public Institutions Department of Health and Human Services shall gather information as to the expenditures of charitable institutions in this and other countries and regarding the best and most successful methods of caring for persons with mental retardation and persons with a mental disorder.

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

Sec. 902. Section 83-113, Reissue Revised Statutes of Nebraska, is amended to read:

83-113. The director Director of Health and Human Services may examine any of the officers, attendants, guards, and other employees, and make such inquiries as will determine their fitness for their respective duties, and shall investigate and report to the Governor any abuses or wrongs alleged to exist in the institution.

Sec. 903. Section 83-114, Reissue Revised Statutes of Nebraska, is amended to read:

83-114. The Director of Public Institutions Director of Health and Human Services shall have the power to summon and examine witnesses under oath, to examine books and papers pertaining to the subject under investigation, and to compel the production of such books and papers. Witnesses who are not employees of the state shall receive the same fees as witnesses in civil cases in the district court, and their fees shall be paid by vouchers. Any officer or employee who interferes in any manner with the director's official investigation shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be removed from his or her position, and be fined in a sum not less than ten dollars nor more than one hundred dollars. The claim that any testimony or evidence sought to be elicited or produced may tend to incriminate the person giving or producing it, or expose him or her to public ignominy, shall not excuse him or her from testifying or producing the evidence, but any evidence given by a witness at such an investigation shall not be used against him or her in a criminal prosecution. A witness shall not be exempt from prosecution and punishment for perjury for testifying falsely at an investigation. It shall be the duty of the director to cause such testimony to be filed in the office of the department as soon thereafter as practicable, and such testimony shall be open for inspection. Any person failing to obey the orders of the director, issued under the provisions of this section, shall be reported by the director to the district court, or any judge thereof, and shall be dealt with by the court or judge as for contempt of court.

Sec. 904. Section 83-115, Reissue Revised Statutes of Nebraska, is amended to read:

83-115. The Director of Public Institutions Director of Health and Human Services shall be prepared to give any information desired by the Legislature concerning the institutions under his or her control, and his or her administration shall be subject to examination under oath by a legislative committee, touching any matter in regard to which the Legislature may desire information concerning the condition of the institutions, their inmates, and the performance of their duties by the director or his or her employees. The committee may call and examine under oath any other persons as witnesses in such investigation. Such examinations shall be conducted in the manner and subject to the provisions of section 83-114.

Sec. 905. Section 83-116, Reissue Revised Statutes of Nebraska, is amended to read:

83-116. The Department of Public Institutions Department of Health and Human Services shall have the power to bring all suits necessary to protect the interests of the state. Such proceedings shall be instituted in the name of the State of Nebraska.

Sec. 906. Section 83-120, Reissue Revised Statutes of Nebraska, is amended to read:

83-120. Neither the Director of Public Institutions Director of Health and Human Services nor any employee of the Department of Public Institutions Department of Health and Human Services shall receive from any person, firm, or corporation having dealings with the department, or from any employee or representative of such person, firm, or corporation, any gift or gratuity, either directly or indirectly, for himself or herself or for any other person. The director or any employee who receives such a gift or gratuity shall be deemed guilty of bribery under section 28-917 and shall be removed from office.

Sec. 907. Section 83-121, Revised Statutes Supplement, 1995, is amended to read:

83-121. There is hereby created the School District Reimbursement Fund for use by the Department of Public Institutions Department of Health and Human Services. The fund shall consist of money received from school districts or the Department of Social Services Department of Health and Human Services Finance and Support pursuant to section 79-3341 for the operation of special education programs within the Department of Public Institutions Department of Health and Human Services. The fund shall be used for the operation of such programs pursuant to sections 79-3341 to 79-3346.

Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 908. Any money remaining in the Department of Public Institutions Institutional Cash Fund shall be transferred to the Department of Health and Human Services Cash Fund on January 1, 1997.

Sec. 909. Section 83-130, Reissue Revised Statutes of Nebraska, is amended to read:

83-130. An Emergency Revolving Fund, not to exceed three thousand dollars for any one institution, upon order of the Director of Public Institutions Director of Health and Human Services, shall be drawn from the State Treasurer, to be used by the chief executive officer of each institution as an emergency cash fund. The fund shall be drawn from the general maintenance appropriation for the director. An accounting of this fund shall be made by each executive officer once each month to the director.

Sec. 910. Section 83-133, Reissue Revised Statutes of Nebraska, is amended to read:

83-133. The chief executive officer of any state institution under the control of the Department of Public Institutions Department of Health and Human Services shall notify the state investment officer of and refer for investment in accordance with section 72-1244 any surplus of canteen funds or trust funds which he or she may have belonging to the residents of the institution under his or her control. The income accruing from the investment of canteen funds shall be used for the general entertainment of the residents of the institution. The income accruing from the investment of the residents' personal trust funds shall be distributed and prorated to each resident's personal trust account in accordance with the participation of each resident's personal account.

Sec. 911. Section 83-134, Revised Statutes Supplement, 1995, is amended to read:

83-134. (1) The Department of Public Institutions Department of Health and Human Services shall have general charge of the erection of new buildings, the repair and improvement of buildings, including fire escapes, and the improvement of grounds.

(2) Buildings and other improvements costing more than forty thousand dollars, exclusive of equipment not germane to construction and building material made in the institution, shall be (a) constructed under the general charge of the department as provided in subsection (1) of this section and (b) let by contract to the lowest responsible bidder after proper advertisement as set forth in subsection (5) of this section.

(3) The labor of persons committed to the Department of Correctional Services pursuant to section 83-183 or of state charges may be employed, whenever the Department of Public Institutions Department of Health and Human Services deems it practicable, in all construction, repairs, and improvements at state institutions.

(4) The successful bidder at the letting referred to in subsection (2) of this section shall enter into a formal contract with the department, prepared pursuant to subsection (5) of this section, and shall furnish a bond for the faithful performance of his or her contract, except that a performance bond shall not be required for any project which has a total cost of forty thousand dollars or less unless the department includes a bond requirement in

the specifications for the project.

(5) When contracts are to be let by the department as is provided for by subsection (2) of this section, advertisements shall be published in accordance with rules and regulations adopted and promulgated by the state building division of the Department of Administrative Services stating that sealed proposals will be received by the Department of Public Institutions Department of Health and Human Services at its office on the date therein stated for the furnishing of materials, the construction of buildings, or the making of repairs or improvements and that plans and specifications can be seen at the office of the department. All bids or proposals shall be accompanied by a certified check or bid bond in a sum fixed by the department and payable thereto. All such contracts shall be awarded to the lowest responsible bidder, but the right shall be reserved to reject any and all bids. Whenever any material described in any contract can be obtained from any state institution, the department shall exclude it from such a contract. Upon the awarding of the contract or contracts therefor, the Attorney General shall review the contract or contracts to be entered into by the department and the contracting parties.

Sec. 912. Section 83-135, Reissue Revised Statutes of Nebraska, is amended to read:

83-135. The Department of Public Institutions Department of Health and Human Services and the Department of Correctional Services shall have authority to petition the authorities of any city, town, or village in which a state institution is located, to grade, curb, and pave any street or streets upon which the grounds of the institution abut, where the streets are a part of a paving district, to waive any damage sustained by the grounds from the grading, curbing, or paving, and to charge the grounds with a proportionate share of the cost of paving. The contract for grading, curbing, and paving shall be let by the authorities of the city, town, or village, as provided for by the law governing the city, town, or village, and none of the provisions for the letting of contracts by the department shall apply. The cost of paving, including curbing and grading, assessed and levied against the property, shall be paid to the proper officers of the city, town, or village, by the State Treasurer, out of funds which may be appropriated by the Legislature for that purpose.

Sec. 913. Section 83-139, Reissue Revised Statutes of Nebraska, is amended to read:

83-139. The steward of each institution shall have charge of all supplies for that institution, and shall be charged therewith at their invoice value. Supplies shall be issued only on requisition by the chief executive officer, and on printed blanks which shall serve as the steward's vouchers. The steward shall report monthly to the Department of Public Institutions Department of Health and Human Services or the Department of Correctional Services, whichever has jurisdiction, the amounts of supplies received, used, and on hand. At the close of the biennial period the steward shall make a comprehensive report to the department showing all the transactions of his or her department. Any shortage, not allowed by the department for unavoidable causes, shall be paid for by the steward within ten days after the amount due is officially determined, and in default of payment the steward shall forfeit his or her office, and suit to recover the amount shall be instituted upon his or her official bond.

Sec. 914. Section 83-140, Reissue Revised Statutes of Nebraska, is amended to read:

83-140. The Purchasing Agent shall purchase all necessary supplies for the institutions under the Department of Public Institutions Department of Health and Human Services and the Department of Correctional Services, except, in its discretion, fresh fruit, vegetables, and emergency and minor purchases. The last-named supplies may be purchased by the chief executive officer or steward under the order of the department. An itemized statement of such purchases, duly verified, shall be filed with the department on the first day of each month. Estimates of needed supplies shall be furnished the department by each chief executive officer. Such estimates shall be examined by the department, and an itemized statement of such as are approved by the department, showing kind, quantity and quality, shall be filed with the Purchasing Agent, and upon request shall be furnished to any applicant therefor.

Sec. 915. Section 83-144, Reissue Revised Statutes of Nebraska, is amended to read:

83-144. The Department of Public Institutions Department of Health and Human Services and the Department of Correctional Services shall administer the provisions of sections 83-144 to 83-152.

Sec. 916. Section 83-153, Reissue Revised Statutes of Nebraska, is

amended to read:

83-153. Any claim to money or personal property in the hands of the Department of Public Institutions Department of Health and Human Services or the Department of Correctional Services to the credit of an inmate or patient of any institution subject to the jurisdiction of such departments shall be required to be asserted within two years from and after either (1) the date of the death of the inmate or patient, while confined in such institution, or (2) the date of the discharge of the inmate or patient from such institution. If such claim is not presented within the time limited by this section, it shall be forever barred.

Sec. 917. Section 83-154, Reissue Revised Statutes of Nebraska, is amended to read:

83-154. Upon the failure to assert a claim for money within two years as prescribed by section 83-153, the Department of Public Institutions Department of Health and Human Services or the Department of Correctional Services shall transfer such money to a special fund to be set up for the use and benefit of all the inmates or patients of the institution in which the deceased or discharged inmate or patient was confined.

Sec. 918. Section 83-155, Reissue Revised Statutes of Nebraska, is amended to read:

83-155. Upon the failure to assert a claim for personal property within two years as prescribed by section 83-153, the Department of Public Institutions Department of Health and Human Services or the Department of Correctional Services shall sell the property, either with or without notice at either public or private sale, and shall place the proceeds of such sale in the special fund provided for by section 83-154.

Sec. 919. Section 83-156, Reissue Revised Statutes of Nebraska, is amended to read:

83-156. Nothing contained in sections 83-153 to 83-156 shall be construed in such a manner as to prohibit the Department of Public Institutions Department of Health and Human Services or the Department of Correctional Services from voluntarily remitting or delivering to any present or former inmate or patient of any state institution, subject to the jurisdiction of such department, or to his or her heirs, legatees, or other persons lawfully entitled to the same, any money or other personal property in the hands of the department to the credit of such inmate or patient, either during the confinement of such inmate or patient, or at any time thereafter.

Sec. 920. Section 83-159, Revised Statutes Supplement, 1995, is amended to read:

83-159. For purposes of the Alcoholism, Drug Abuse, and Addiction Services Act and sections 71-5016 to 71-5041, unless the context otherwise requires:

(1) Alcoholic shall mean any person who habitually uses alcoholic beverages to the extent that he or she has lost the power of self-control with respect to the use of such beverages or who is chronically or habitually under the influence of alcoholic beverages and endangers the health, morals, safety, or welfare of himself or herself or any other persons or group of persons;

(2) Drug abuser shall mean any person who uses any controlled substance or drugs so as to endanger the public morals, health, safety, or welfare or who is so addicted to the use of such as to have lost the power of self-control with reference to his or her addiction;

(3) Compulsive gambler shall mean any person who is unable to resist impulses to gamble and gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits;

(4) Alcoholism shall mean the habitual use of alcoholic beverages to the extent that the user loses the power of self-control with respect to such use or the condition of being chronically or habitually under the influence of alcoholic beverages to an extent that endangers the health, morals, safety, or welfare of the user or any other person;

(5) Drug abuse shall mean any use of any controlled substance or drug so as to endanger the public morals, health, safety, or welfare or to the extent that the user loses the power of self-control with respect to such use;

(6) Compulsive gambling shall mean a chronic and progressive failure to resist impulses to gamble and gambling behavior that compromises, disrupts, or damages personal, family, or vocational pursuits;

(7) Commission shall mean the Nebraska Advisory Commission on Compulsive Gambling;

(8) Committee shall mean the State Alcoholism and Drug Abuse Advisory Committee created in section 71-5024;

(9) Division shall mean the Division of Alcoholism, Drug Abuse, and Addiction Services of the Department of Public Institutions Department of Health and Human Services;

(10) Director shall mean the Director of the Division of Alcoholism, Drug Abuse, and Addiction Services;

(11) Drug shall mean:

(a) Any article recognized in the official United States Pharmacopoeia or official Homeopathic Pharmacopoeia;

(b) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals;

(c) Any substance other than food intended to affect, or actually affecting, the structure or any function of the body or mind of man or animals; or

(d) Any substance intended for use as a component of any article specified in subdivision (a), (b), or (c) of this subdivision, but does not include devices of the article's components, parts, or accessories;

(12) Controlled substance shall mean any substance within the meaning of sections 28-404 and 28-405; and

(13) Department shall mean the Department of Public Institutions Department of Health and Human Services.

Sec. 921. Section 83-160, Revised Statutes Supplement, 1995, is amended to read:

83-160. There is hereby created the Division of Alcoholism, Drug Abuse, and Addiction Services which shall be a division of the Department of Public Institutions Department of Health and Human Services. The division shall consist of a director appointed by the Director of Public Institutions Director of Health and Human Services and such additional employees as may be necessary to carry out the Alcoholism, Drug Abuse, and Addiction Services Act and sections 71-5016 to 71-5041.

Sec. 922. Section 83-163, Revised Statutes Supplement, 1995, is amended to read:

83-163. The director, with the advice of the committee and the commission and the approval of the Director of Public Institutions Director of Health and Human Services, shall:

(1) Develop comprehensive and integrated statewide plans for alcoholism, drug abuse, compulsive gambling, and other addiction services;

(2) Establish minimum standards for the operation of any facility or program, providing alcoholism, drug abuse, compulsive gambling, or other addiction services, funded in whole or in part under sections 71-5016 to 71-5040, the Alcoholism, Drug Abuse, and Addiction Services Act, or any other legislation of the federal government or this state specifically designated for alcoholism, drug abuse, compulsive gambling, or other compulsive disorders resulting from addiction;

(3) Coordinate the overall state effort of rehabilitation of alcoholics, drug abusers, compulsive gamblers, and individuals with other compulsive disorders resulting from addiction;

(4) Establish and maintain appropriate subordinate administrative units within the division;

(5) Recommend to the Director of Public Institutions Director of Health and Human Services the appointment of such personnel as he or she deems necessary for the efficient performance of the functions of the division;

(6) Make certification for disbursement, in accordance with law and regulations, of funds available for services under the act;

(7) Take such other action as he or she deems necessary or appropriate to carry out the purposes of the act;

(8) Delegate to any employee of the division such of his or her powers and duties, except the making of regulations and the making of recommendations for the appointment of personnel, as he or she finds necessary to carry out the purposes of the act; and

(9) Attend all meetings of the committee as an ex officio member without vote.

Sec. 923. Section 83-176, Reissue Revised Statutes of Nebraska, is amended to read:

83-176. (1) Whenever any person is sentenced or committed under any provision of law to a specific facility within the department or to the custody of the warden or superintendent of such facility, he or she shall be deemed to be sentenced or committed to the department.

(2) The director may designate as a place of confinement of a person committed to the department any available, suitable, and appropriate residence facility or institution, whether or not operated by the state, and may at any time transfer such person from one place of confinement to another. subject to the following:

(a) A minor declared to be as described in subdivision (3) of section 43-247 shall not be assigned or transferred to any facility designed primarily for the imprisonment of adult committed offenders.

(b) A minor declared to be as described in subdivision (1) or (2) of section 43-247 shall not be assigned or transferred to any facility designed primarily for the imprisonment of adult committed offenders unless the minor is sixteen years of age or older and is a serious threat to the safety of persons in other facilities. The determination as to whether the minor is a serious threat to safety shall be made only after a juvenile court hearing in the court of original disposition at which the minor shall have the right to be represented by counsel.

Sec. 924. Section 83-180, Reissue Revised Statutes of Nebraska, is amended to read:

83-180. (1) When a physician designated by the Director of Correctional Services finds that a person committed to the department suffers from a physical disease or defect, or when a physician or psychologist designated by the director finds that a person committed to the department suffers from a mental disease or defect, the chief executive officer may order such person to be segregated from other persons in the facility. If the physician or psychologist is of the opinion that the person cannot be given proper treatment in that facility, the director may arrange for his or her transfer for examination, study, and treatment to any medical-correctional facility, or to another institution in the Department of Public Institutions Department of Health and Human Services where proper treatment is available. A person who is so transferred shall remain subject to the jurisdiction and custody of the Department of Correctional Services and shall be returned to the department when, prior to the expiration of his or her sentence, treatment in such facility is no longer necessary.

(2) When the physician or psychologist designated by the Director of Correctional Services finds that a person committed to the department suffers from a physical or mental disease or defect which in his or her opinion cannot be properly treated in any facility or institution in the Department of Public Institutions Department of Health and Human Services, the director may arrange for his or her transfer for treatment to a hospital or psychiatric facility outside the department. The director shall make appropriate arrangements with other public or private agencies for the transportation to, and for the care, custody, and security of the person in, such hospital or psychiatric facility. While receiving treatment in such hospital or psychiatric facility, the person shall remain subject to the jurisdiction and custody of the Department of Correctional Services, and shall be returned to the department when, prior to the expiration of his or her sentence, such hospital or psychiatric treatment is no longer necessary.

(3) When two psychiatrists designated by the Director of Correctional Services find that a person about to be released or discharged from any facility suffers from a mental disease or defect of such a nature that his or her release or discharge will endanger the public safety or the safety of the offender, the director shall transfer him or her to, or if he or she has already been transferred, permit him or her to remain in, a psychiatric facility in the Department of Public Institutions Department of Health and Human Services and shall promptly commence proceedings applicable to the civil commitment and detention of persons suffering from such disease or defect.

Sec. 925. Section 83-1,147, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,147. There is hereby created within the Department of Public Institutions Department of Health and Human Services a Division of Medical Services which shall:

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

(2) Plan, develop, administer, and operate mental health and mental retardation clinics, programs, and services;

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

(4) Represent the Department of Public Institutions Department of Health and Human Services in its relationship with the University of Nebraska Medical Center concerning psychiatric services, except that sections 83-107.01, 83-1,147 to 83-1,152, 83-227.01, 83-305, 83-306, 83-307.01, 83-308, 83-312, 83-324, 83-336, 83-339, 83-340, 83-348, and 83-391 to 83-393 shall not otherwise alter the terms of the existing relationship between the Department of Public Institutions Department of Health and Human Services and the Board of Regents of the University of Nebraska relating to psychiatric services; and

(5) Have such additional responsibilities and perform such



additional duties as may be assigned to it by law or by the Director of Public Institutions Director of Health and Human Services.

Sec. 926. Section 83-1,148, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,148. The Director of Public Institutions Director of Health and Human Services shall appoint a Director of Medical Services who shall be a qualified licensed physician with appropriate training and experience in mental health, mental retardation, or public health administration. Before entering upon the duties of his or her office, the Director of Medical Services shall subscribe and take the constitutional oath of office, shall file such oath in the office of the Secretary of State, and shall be bonded under the blanket surety bond required by section 11-201. The Director of Medical Services may be removed by the Director of Public Institutions Director of Health and Human Services only for disability, neglect of duty, or malfeasance in office and only after delivering to him or her a statement of the charges and giving him or her an opportunity to be heard.

Sec. 927. Section 83-1,149, Reissue Revised Statutes of Nebraska, is amended to read:

83-1,149. The Director of Medical Services shall:

- (1) Supervise and be responsible for the administration of the Division of Medical Services;
- (2) Establish, consolidate, or abolish administrative subdivisions within the division and appoint and remove for cause the heads thereof, and delegate appropriate powers and duties to them;
- (3) Establish and administer policies for the clinical programs and services of the division;
- (4) Appoint and remove for cause the chief executive officer of each facility referred to in subdivision (1) of section 83-1,147, and delegate appropriate powers and duties to him or her;
- (5) Appoint and remove for cause all employees of the division and delegate appropriate powers and duties to them;
- (6) Make rules and regulations, not inconsistent with law, for the government of the division, the conduct of the clinical programs and services of the division, the admission of persons to the facilities, programs, and services of the division, the care, treatment, and training of patients by the division, the conduct of officers and employees of the division, the custody, use, and preservation of the records, papers, books, and documents of the division, and such other matters as are necessary and proper in carrying out the duties of his or her office;
- (7) Designate the appropriate clinical program or service for patients of the division;
- (8) Collect, develop, and maintain statistical information concerning the clinical operation of the division and its facilities, programs, and services;
- (9) Provide training programs designed to equip employees for duties in the facilities, programs, and services of the division and to raise and maintain the educational standards and the level of performance of such employees;
- (10) Operate the division in conformity with the administrative practices of the Department of Public Institutions Department of Health and Human Services;
- (11) Have such additional responsibilities and perform such additional duties as may be assigned to him or her by law or by the Director of Public Institutions Director of Health and Human Services; and
- (12) Exercise all powers and perform all duties necessary and proper in carrying out his or her responsibilities.

Sec. 928. Section 83-210.02, Reissue Revised Statutes of Nebraska, is amended to read:

83-210.02. (1) The Department of Public Institutions Department of Health and Human Services is hereby authorized to accept the provisions of Public Law 112, Ninety-third Congress of the United States and all amendments thereto, and to cooperate with the United States Government in any way necessary to enable the department to receive federal funds for the vocational rehabilitation of the blind as provided in the above-mentioned Act of Congress such public law and the provisions of Titles II and XVI of the federal Social Security Act, and any amendments thereto.

(2) The Department of Public Institutions Department of Health and Human Services (a) may collect, interpret, and disseminate information relating to the cause, prevention, and cure of blindness; and (b) shall provide vocational rehabilitation services for the blind, including, but not limited to, medical and surgical care and hospitalization, prosthetic appliances, vocational training, maintenance during training, transportation,

and occupational tools and equipment.

(3) The Department of Public Institutions may contract for radio programs which provide reading services for the blind and physically handicapped through June 30, 1984.

Sec. 929. Section 83-210.03, Reissue Revised Statutes of Nebraska, is amended to read:

83-210.03. For the purpose of providing blind persons with remunerative employment, enlarging the economic opportunities of the blind, and stimulating the blind to greater efforts in striving to make themselves self-supporting, blind persons licensed under the provisions of sections 83-210.03 to 83-210.06 shall be authorized to operate vending operations in any state-owned building or on any state-owned or controlled property or any county, city, or municipally owned or controlled property with the approval of the local governing body, where, in the judgment of the Director of Public Institutions Director of Health and Human Services, such vending businesses may be properly and satisfactorily operated by blind persons.

Sec. 930. Section 83-210.04, Reissue Revised Statutes of Nebraska, is amended to read:

83-210.04. The Director of Public Institutions Director of Health and Human Services shall issue to blind persons who are citizens of the United States and at least nineteen years of age licenses for the operating of vending businesses in state-owned buildings and on state-owned or controlled property, or any county, city, or municipally owned or controlled property, for the vending of newspapers, periodicals, confections, tobacco products, food and drink items, and such other articles as may be approved for each building by the director.

Sec. 931. Section 83-210.05, Reissue Revised Statutes of Nebraska, is amended to read:

83-210.05. The Director of Public Institutions Director of Health and Human Services shall, in issuing each license for the operation of a vending operation, give preference to blind persons who are in need of employment. Each such license shall be issued for an indefinite period but may be terminated by the director if he or she is satisfied that the business is not being operated in accordance with the rules and regulations prescribed by the Department of Public Institutions Department of Health and Human Services. Such licenses shall be issued only to applicants who are blind and who are qualified to operate such businesses.

Sec. 932. Section 83-210.06, Reissue Revised Statutes of Nebraska, is amended to read:

83-210.06. The installation and operation of such vending stands on state property and in state-owned or controlled buildings shall be administered by the Department of Public Institutions Department of Health and Human Services pursuant to, and in accordance with, the vending stand program existing under the supervision and control of the department.

Sec. 933. Section 83-210.07, Reissue Revised Statutes of Nebraska, is amended to read:

83-210.07. The Director of Public Institutions Director of Health and Human Services is authorized to select locations for such businesses and the type of services to be provided and to enter bids for the locations when it is determined that private business enterprises wish to bid competitively on the same locations for the same or similar type businesses.

Sec. 934. Section 83-211, Reissue Revised Statutes of Nebraska, is amended to read:

83-211. The Department of Public Institutions Department of Health and Human Services shall have power in each instance (1) to establish standards of qualification for personnel employed in carrying out sections 83-210.01 to 83-210.07 and (2) to employ necessary field agents, teachers, and other personnel in accordance with such standards and fix their compensation.

Sec. 935. Section 83-211.02, Revised Statutes Supplement, 1995, is amended to read:

83-211.02. (1) The rehabilitation advisory council to the Department of Public Institutions Department of Health and Human Services is created to aid in providing services for the visually impaired. The council shall consist of fifteen members who shall be appointed by the Governor. Five members shall be appointed for terms of one year, five members for terms of two years, and five members for terms of three years with the Governor designating the expiration of the term of office of each member of the council when first appointed. Thereafter their successors shall serve for terms of three years. In appointing members to the council, the Governor shall give due consideration to the geographical distribution of visually impaired persons within the state with a view to apportioning membership on the council in accordance with such distribution. The Governor shall appoint a vocational

rehabilitation counselor who, if employed by the Director of Rehabilitation Services for the Visually Impaired, shall be a nonvoting member, and at least one representative from each of the following: (a) The statewide Independent Living Council; (b) a parent training and information center; (c) the Client Assistance Program; (d) a community rehabilitation program service provider; (e) business, industry, or labor; (f) advocacy groups of blind and visually impaired persons to accord fair representation to the several organizations of the blind and visually impaired; and (g) applicants or recipients of vocational rehabilitation services at the time of appointment or at some time prior to being appointed. A majority of the members of the council shall be blind or visually impaired persons. In case of vacancy in the office of any member, his or her successor shall be appointed for the unexpired term.

(2) Members of the council who are not state employees shall receive thirty dollars per day for each day engaged in the duties of the council. Members of the council shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as provided in sections 81-1174 to 81-1177.

(3) The council shall hold four meetings a year at such times and places as determined by the council. A chairperson and such other officers as may be necessary shall be elected by the council by majority vote for terms of office as determined by the council.

(4) The individual designated by the Department of Public Institutions Department of Health and Human Services as the Director of Rehabilitation Services for the Visually Impaired shall serve as an ex officio member of the council in a nonvoting capacity. The director shall furnish any data required by the council in carrying out its functions subject to the limitations prescribed by law relating to the confidentiality of information with respect to individual clients.

(5) The council shall:

(a) Review and analyze the rehabilitation services provided by the Director of Rehabilitation Services for the Visually Impaired and provide advice to the director, particularly with respect to eligibility for and the extent, scope, and effectiveness of services and the impact of other agencies on the success of clients;

(b) Advise the Director of Rehabilitation Services for the Visually Impaired on the preparation of applications, the state plan, the strategic plan, reports, needs assessments, and evaluations required by federal law;

(c) Review and analyze the effectiveness of and consumer satisfaction with other public and private agencies providing services to blind or visually impaired persons;

(d) Prepare and submit an annual report to the Director of Public Institutions Director of Health and Human Services, the Governor, and the Commissioner of Rehabilitation Services on the status of vocational rehabilitation services operated by the Director of Rehabilitation Services for the Visually Impaired. This report shall also be made available to the public;

(e) Coordinate with other councils in the state that serve disabled persons;

(f) Advise the Director of Rehabilitation Services for the Visually Impaired and provide for coordination and the establishment of working relations with the statewide Independent Living Council and centers for independent living; and

(g) Perform other duties that the council determines to be appropriate.

Sec. 936. Section 83-212, Reissue Revised Statutes of Nebraska, is amended to read:

83-212. The term blind as used in programs administered by the Department of Public Institutions Department of Health and Human Services shall include all persons whose sight is so defective as to seriously limit their ability to engage in the ordinary vocations and activities of life.

Sec. 937. Section 83-218, Reissue Revised Statutes of Nebraska, is amended to read:

83-218. The Beatrice State Developmental Center shall provide residential care and humane treatment for those persons with mental retardation who require residential care, shall study to improve their condition, shall classify them, and shall furnish such training in industrial, mechanical, agricultural, and academic subjects as they may be capable of learning. Whenever the Department of Public Institutions Department of Health and Human Services determines that continued residence in the Beatrice State Developmental Center is no longer necessary for the welfare, care, treatment, or training of such person, it shall have authority to discharge or transfer such person as provided in section 83-387. The Department of Public

Institutions Department of Health and Human Services shall discharge any person from the Beatrice State Developmental Center without requiring sterilization of such person, if the discharge satisfies the requirements of this section, notwithstanding any court order, judgment, or decree rendered prior to December 25, 1969, requiring sterilization as a condition of discharge.

Sec. 938. Section 83-223, Reissue Revised Statutes of Nebraska, is amended to read:

83-223. Where the person named in the petition for commitment is a resident, patient, or inmate of a state institution, the court may commit the person to the care and custody of the Department of Public Institutions Department of Health and Human Services. The department may, in its discretion, detain the resident, patient, or inmate in the institution in which he or she is a resident, patient, or inmate at the time of the hearing, subject to the rules of that institution, or may transfer him or her to the Beatrice State Developmental Center.

Sec. 939. Section 83-227.02, Reissue Revised Statutes of Nebraska, is amended to read:

83-227.02. (1) The Department of Public Institutions Department of Health and Human Services is authorized to use space which is temporarily surplus to the needs of any institution under its control, except as provided in subsection (2) of this section, for the care, custody, and treatment of the inmates of any other such institution when space at such latter institution is inadequate and the facilities of the institution to which transfer is made are suitable to the needs of the inmate. Inmates so transferred shall receive the same care, custody, and treatment as they would have received had they not been transferred. If the cost of the care, custody, and treatment of such inmate is recoverable by the institution from which the transfer was made, it shall be recovered in the manner provided in sections 83-363 to 83-380.

(2) Subsection (1) of this section shall not be construed to permit the transfer of inmates to or from any Department of Correctional Services facility unless expressly authorized by law.

Sec. 940. Section 83-305.03, Reissue Revised Statutes of Nebraska, is amended to read:

83-305.03. The Director of Public Institutions Director of Health and Human Services or the Director of Correctional Services may order the temporary transfer of any person committed to the Department of Public Institutions Department of Health and Human Services or the Department of Correctional Services to the University of Nebraska Medical Center with the concurrence of the chancellor thereof for special diagnosis and treatment of any illness such person may suffer which cannot be properly diagnosed or treated by the medical facilities of the institution of which he or she is a patient or inmate. The responsibility of guarding any such patient or inmate transferred shall remain with the institution of which he or she is a patient or inmate. The Department of Public Institutions Department of Health and Human Services or the Department of Correctional Services shall pay, out of the proper account, all expenses incurred by the University of Nebraska Medical Center on behalf of any patient or inmate so transferred by the respective department.

Sec. 941. Section 83-306, Reissue Revised Statutes of Nebraska, is amended to read:

83-306. (1) The three state hospitals for the mentally ill described in section 83-305 shall provide care and treatment for all persons suffering from mental diseases who are admitted to the state hospitals.

(2) Subject to such special limitations as to classes of patients as may be prescribed by law, state hospitals, described in section 83-305, shall receive and treat mentally ill dangerous persons committed by mental health boards or by district courts, or who voluntarily apply for admission to the mental health boards or to the Director of Medical Services, except as provided in subsection (3) of this section.

(3) The mental health board may commit mentally ill dangerous persons to the Douglas County Hospital, or other public or private hospitals with acute psychiatric care facilities, in the State of Nebraska if the facility and staff have been certified by the Director of Medical Services, Department of Public Institutions, of the Department of Health and Human Services as adequate for the care and treatment of mentally ill dangerous persons. The county and state shall contribute toward the payment of the costs of such commitment, as defined in section 83-376, in an amount which would have been paid if such mentally ill dangerous person had become a patient and received care and treatment at a state hospital described in section 83-305, except ~~PROVIDED~~ that the state's cost of care for such mentally ill dangerous person shall not exceed the individual cost as defined

in section 83-365. A person committed to the Douglas County Hospital shall be considered a patient committed to the State of Nebraska for care and treatment, and the provisions of such commitment shall be identical to those provisions relating to a mentally ill dangerous person committed to a state hospital as defined in section 83-305.

(4) Dipsomaniacs, inebriates, and other persons addicted to the excessive use of alcoholic liquors shall, unless request is made in writing by the patient that he or she be committed to another state hospital, be committed to the Hastings Regional Center and shall be placed and kept together in a separate building or in one ward, except when, in the opinion of the superintendent, some individual patients would be detrimental to the treatment, care, and program adopted. If ~~if~~ ~~no~~ space is available at the Hastings Regional Center to take care of the patient, he or she may be committed to and accepted by any of the other state hospitals having space available.

Sec. 942. Section 83-307, Reissue Revised Statutes of Nebraska, is amended to read:

83-307. The state hospitals for the mentally ill shall make suitable provision for the care and treatment of patients. The Department of Public Institutions Department of Health and Human Services and the Board of Regents of the University of Nebraska shall cooperate so as to make available an interchange of the facilities of the Nebraska state hospitals and the College of Medicine for teaching and treatment purposes. The Department of Public Institutions Department of Health and Human Services and the Board of Regents are authorized to make joint arrangements so as to carry out the purposes of sections 83-307 and 83-307.01.

Sec. 943. Section 83-313, Reissue Revised Statutes of Nebraska, is amended to read:

83-313. The Department of Public Institutions Department of Health and Human Services shall hold in trust, for the state hospitals for the mentally ill, all real or personal property given or bequeathed, to be applied for any purpose connected with the institutions.

Sec. 944. Section 83-348, Reissue Revised Statutes of Nebraska, is amended to read:

83-348. Patients in the state hospitals for the mentally ill having no legal settlement in this state, or whose legal settlement cannot be ascertained, shall be supported at the expense of the state. This section shall apply to all such patients now in the hospitals, and shall include expenses already incurred and remaining unpaid. The Director of Public Institutions Director of Health and Human Services may authorize the removal of any such patient at the expense of the state.

Sec. 945. Section 83-351, Reissue Revised Statutes of Nebraska, is amended to read:

83-351. Expenses incurred by one county, on account of a mentally ill dangerous person whose legal settlement is in another county of the state, shall be refunded, with lawful interest thereon, by the county in which the patient has his or her legal settlement. Such ~~such~~ expenses shall be presented to the county board of the county sought to be charged, which shall allow and pay them the same as other claims. Whenever an inmate of any institution over which the Department of Public Institutions Department of Health and Human Services has control has been adjudicated a mentally ill dangerous person and committed to a state hospital for the mentally ill, and the expenses of the adjudication and commitment shall have been paid by the county in which the institution is located, the county clerk of that county shall certify the total amount of the expenses thus incurred to the Department of Public Institutions Department of Health and Human Services. The department shall audit the expenses so certified, and shall file a statement of the amount found due with the Director of Administrative Services, and a warrant shall be drawn on the General Fund in favor of the county from which the patient was committed.

Sec. 946. Section 83-355, Reissue Revised Statutes of Nebraska, is amended to read:

83-355. Mentally ill persons from other states and territories may be admitted to the state hospitals for the mentally ill upon equal footing and on same conditions as private-pay patients. The sum to be paid monthly for the care, maintenance, and treatment of such patients shall be fixed by the Department of Public Institutions, Department of Health and Human Services and shall be collected quarterly in advance by the stewards of the hospitals and accounted for the same as other funds in their hands belonging to the State of Nebraska.

Sec. 947. Section 83-363, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Department shall mean the Department of Public Institutions Department of Health and Human Services;

(2) Director shall mean the Director of Public Institutions Director of Health and Human Services;

(3) State institution shall mean the state hospitals at Lincoln, Norfolk, and Hastings, the Beatrice State Developmental Center, and such other institutions as may hereafter be established by the Legislature for the care and treatment of persons with a mental disorder or mental retardation;

(4) Relative shall mean the spouse of a patient or, if the patient has no spouse and is under the age of majority at the time he or she is admitted, the parents of a patient in a state institution; and

(5) Parents shall mean either or both of a patient's natural parents unless such patient has been legally adopted by other parents, in which case parents shall mean either or both of the adoptive parents.

Sec. 948. Section 83-365, Reissue Revised Statutes of Nebraska, is amended to read:

83-365. The Department of Public Institutions Department of Health and Human Services shall periodically determine the individual cost, exclusive of the cost of education, for the care, support, maintenance, and treatment of the patients in each state institution and for persons receiving treatment prescribed by an institution following release or without being admitted as a resident patient. In making such determinations, the department may use averaging methods for each institution if, in the judgment of the director, it is not practicable to compute the cost for each patient. The cost of capital expenditures and capital construction shall not be included in making such determinations.

Sec. 949. Section 83-376, Reissue Revised Statutes of Nebraska, is amended to read:

83-376. When the full cost determined to be necessary for the care, support, maintenance, and treatment of any patient is not paid by the patient or his or her relatives within thirty days of receipt of such care, (1) the county in which the patient resides shall pay (a) the first fifteen dollars per day of the unpaid cost for each of the first thirty days at the Hastings Regional Center, the Lincoln Regional Center, the Norfolk Regional Center, or the University of Nebraska Medical Center, (b) the first ten dollars per day of the unpaid cost for each of the first thirty days at the Beatrice State Developmental Center, and (c) the first three dollars per day of the unpaid costs for each day after the first thirty days at any such institution, (2) the balance of the unpaid cost shall be borne by the state, and (3) the county in which the patient resides shall be credited by the Director of Public Institutions Director of Health and Human Services for amounts collected from such patient or his or her relatives in excess of the portion of such costs borne by the state.

Sec. 950. Section 83-380, Reissue Revised Statutes of Nebraska, is amended to read:

83-380. ~~Enactment of sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380 shall not affect obligations incurred prior to July 25, 1969, by a patient, his guardian, spouse, child, or parent, or by counties. Within thirty days after June 30, 1971, the Director of Public Institutions shall certify to the Director of Administrative Services all amounts not previously paid due to each state institution from the several counties having patients chargeable thereto. The Director of Administrative Services shall thereupon notify the county clerk of each county of the amount such county owes. The county board shall add a portion or all of such amount to the county tax to be levied in the county for the next one to two years at the discretion of the county and pay the total amount into the state treasury no later than June 1, 1973, which amount the State Treasurer shall credit to the General Fund.~~

Within thirty days after June 30, 1971, and each year thereafter the Director of Public Institutions Director of Health and Human Services shall also certify to the Director of Administrative Services all amounts not previously certified due to each state institution from the several counties having patients chargeable thereto. The Director of Administrative Services shall thereupon notify the county clerk of each county of the amount each county owes. The county board shall add to its next levy an amount sufficient to raise the amount certified as due. The county shall pay the amount certified into the state treasury on or before the next June 1 following such certification.

From any county which fails to pay the total amount presently due by June 1, 1973, or the total amount certified as due annually by the next June 1 following certification, as above provided, there shall be withheld by the

State Treasurer from the next allocation to such county due from the Governmental Subdivision Fund under the provisions of section 77-27,137, an amount sufficient to equal the amount unpaid from such county which amount shall be deducted from the county's portion and not the municipalities' under section 77-27,138. The State Treasurer shall credit the amount withheld the same as if the county had paid it when due as above provided.

Sec. 951. Section 83-380.01, Reissue Revised Statutes of Nebraska, is amended to read:

83-380.01. Upon the discharge from a treatment facility, an indigent person who has received mental health board-ordered treatment may file an affidavit with the Department of Public Institutions Department of Health and Human Services or the mental health board requesting that prescription medicine which the regional center treating psychiatrist or the patient's treating physician has prescribed as necessary for the patient's mental health treatment be provided to him or her. Such affidavit shall include the following: (1) That the patient qualifies as an indigent person who is unable to pay under the same standards of ability to pay as set forth in sections 83-363 to 83-380; and (2) that such prescription medicine has been prescribed by the regional center's treatment psychiatrist or the patient's treating physician as necessary for the patient's mental health treatment. The mental health board shall refer such requests it receives to the Department of Public Institutions Department of Health and Human Services and the department shall provide such prescription medicine as may be necessary for such former patient's mental health treatment so long as he or she remains an outpatient and his or her treating physician continues to prescribe and certify that such prescription medicine is necessary for the patient's mental health treatment and he or she continues to be an indigent person as determined under the same standards of ability to pay as set forth in sections 83-363 to 83-380. The Department of Public Institutions Department of Health and Human Services may adopt and promulgate rules and regulations to carry out the provisions of this section in accordance with the Administrative Procedure Act, including, but not limited to, hearings necessary to determine whether such person is qualified to receive such medications and whether such medication is necessary for the patient's mental health treatment.

Sec. 952. Section 83-381, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Person with mental retardation shall mean any person of subaverage general intellectual functioning which is associated with a significant impairment in adaptive behavior;

(2) Director shall mean the Director of Public Institutions Director of Health and Human Services or such person or agency within the Department of Public Institutions Department of Health and Human Services as the director may designate; and

(3) Residential facility shall mean an institution specified under section 83-217 to provide residential care by the State of Nebraska for persons with mental retardation.

Sec. 953. Section 83-382, Reissue Revised Statutes of Nebraska, is amended to read:

83-382. Except as provided in sections 79-3337 and 79-3338, the Department of Public Institutions Department of Health and Human Services shall have jurisdiction of the admission of persons with mental retardation to a residential facility. Applications for admission to a residential facility shall be filed with the director.

Sec. 954. Section 83-383, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

(2) The county court of the county of residence of any person with mental retardation or the county court of the county in which a state residential facility is located shall have authority to appoint a guardian for any person with mental retardation upon the petition of the husband, wife, parent, person standing in loco parentis to such person, a county attorney, or

any official of the Department of Public Institutions ~~Department of Health and Human Services~~ authorized by the director. If the guardianship proceedings are initiated by an official of the ~~Department of Public Institutions~~ Department of Health and Human Services, the costs thereof may be taxed to and paid by the ~~Department of Public Institutions~~ department if the person with mental retardation is without means to pay the costs. The ~~Department of Public Institutions~~ Department of Health and Human Services shall pay such costs upon presentation of a proper claim by the judge of the county court in which the proceedings were initiated. The costs of such proceedings shall include court costs, attorneys' fees, sheriffs' fees, psychiatric fees, and other necessary expenses of the guardianship.

Sec. 955. Section 83-391, Reissue Revised Statutes of Nebraska, is amended to read:

83-391. For purposes of sections 83-108, 83-1,147, 83-305, and 83-391 to 83-393, unless the context otherwise requires:

(1) Department shall mean the ~~Department of Public Institutions~~ Department of Health and Human Services; and

(2) Facility shall mean a skilled nursing care or intermediate care facility.

Sec. 956. Section 83-472, Reissue Revised Statutes of Nebraska, is amended to read:

83-472. (1) Every juvenile committed to the Youth Rehabilitation and Treatment Center-Kearney or Youth Rehabilitation and Treatment Center-Geneva or other facility or placement of the Office of Juvenile Services under sections 83-465 to 83-470 pursuant to the Nebraska Juvenile Code or subsection (3) of section 29-2204 shall remain there until he or she attains the age of nineteen unless sooner paroled or legally discharged.

(2) The Office of Juvenile Services shall adopt and promulgate rules and regulations for the promotion, parole, and final discharge of juveniles such as shall be considered mutually beneficial for the Office of Juvenile Services and facilities under its direction institution and the juveniles.

(3) The discharge of any juvenile pursuant to the rules and regulations or upon his or her attainment of the age of nineteen shall be a complete release from all penalties incurred by conviction or adjudication of the offense for which he or she was committed.

Sec. 957. Section 83-802, Reissue Revised Statutes of Nebraska, is amended to read:

83-802. Pursuant to the compact as provided in section 83-801, the ~~Director of Public Institutions~~ Director of Health and Human Services or such person as the director may designate shall be the compact administrator and shall have the power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

Sec. 958. Section 83-901, Reissue Revised Statutes of Nebraska, is amended to read:

83-901. The purpose of sections 49-617, 68-621, 68-703, 72-249, 72-1302 to 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01, 83-108, 83-108.04, 83-112, 83-134, 83-135, 83-139, 83-140, 83-144, 83-145, 83-147 to 83-150, 83-153 to 83-156, 83-170 to 83-173, 83-186, 83-188, 83-428, 83-443, 83-4,100 to 83-4,102, 83-4,104, and 83-901 to 83-916 is to establish an agency of state government for the custody, study, care, discipline, training, and treatment of persons in the correctional and detention institutions and for the study, training, and treatment of persons under the supervision of other correctional services of the state so that they may be prepared for lawful community living. Correctional services shall be so diversified in program and personnel as to facilitate individualization of treatment.

Sec. 959. Section 83-922, Reissue Revised Statutes of Nebraska, is amended to read:

83-922. The Department of Correctional Services shall fulfill those functions of state government relating to the custody, study, care, discipline, training, and treatment of persons in correctional and detention institutions. There shall be separate divisions and offices within the department to assist in fulfilling these functions. The divisions shall be the Division of Community-Centered Services, the Division of Administrative Services, and the Division of Adult Services, and the office shall be the ~~Office of Juvenile Services~~. The Director of Correctional Services shall appoint an assistant director as head of each division and may remove or change the powers and responsibilities of the assistant director of any of the



divisions at his or her discretion. The Juvenile Services Director shall be appointed by the Governor pursuant to section 83-925.03.

Sec. 960. Section 83-925.02, Reissue Revised Statutes of Nebraska, is amended to read:

83-925.02. There is hereby created within the Department of Correctional Services Department of Health and Human Services the Office of Juvenile Services. The office shall be established within the department for administrative purposes. The office shall have separate budgeting procedures and shall develop and report budget information separately, from the department's adult programs. For purposes of efficiency, some functions of the office shall be carried out collaboratively, through a sharing of administrative staff, between the office and the department, as determined by the Director of Correctional Services Director of Health and Human Services.

Sec. 961. Section 83-925.03, Reissue Revised Statutes of Nebraska, is amended to read:

83-925.03. The Juvenile Services Director shall be appointed by the Governor with the approval of a majority of the Legislature. All employees of the Division of Juvenile Services of the Department of Correctional Services on April 16, 1994, shall become employees of the Office of Juvenile Services. The Juvenile Services Director shall supervise and administer the Office of Juvenile Services and shall hire any additional staff necessary to carry out the duties of the office. The office shall administer and deliver services on a regional basis, with a minimum of three regions to be established.

Sec. 962. (1) Whenever any juvenile is sentenced or committed under any provision of law to the Office of Juvenile Services, to any facility operated by the Office of Juvenile Services, or to the custody of the warden or superintendent of a facility, he or she shall be deemed to be sentenced or committed to the Office of Juvenile Services.

(2) The Juvenile Services Director may designate as a place of confinement or placement of a juvenile committed to the Office of Juvenile Services any available, suitable, and appropriate residence facility or institution, whether or not operated by the state, or other placement appropriate to the needs of the juvenile, whether or not operated by the state, and may at any time transfer such juvenile from one place of placement to another subject to the following:

(a) A juvenile declared to be as described in subdivision (3) of section 43-247 shall not be assigned or transferred to any facility designed primarily for the imprisonment of adult committed offenders; and

(b) A juvenile declared to be as described in subdivision (1), (2), or (4) of section 43-247 shall not be assigned or transferred to any facility designed primarily for the imprisonment of adult committed offenders unless the juvenile is sixteen years of age or older and is a serious threat to the safety of persons in other facilities. The determination as to whether the juvenile is a serious threat to safety shall be made only after a juvenile court hearing in the court of original disposition at which the juvenile shall have the right to be represented by counsel.

Sec. 963. Section 83-1018, Reissue Revised Statutes of Nebraska, is amended to read:

83-1018. (1) The members of the mental health board shall be appointed for terms of two years by the presiding judge of the district court in the district in which the board is located. The board shall consist of a lawyer licensed to practice law in this state, and any two of the following, but not more than one from each class: A physician; a psychologist; a psychiatric social worker; a psychiatric nurse; a clinical social worker; or a layperson with a demonstrated interest in mental health issues. When a vacancy occurs, appointment to fill the vacancy shall be made for the balance of the term. As the terms of the initial appointees to the mental health board expire, succeeding appointees shall be appointed to four-year terms. Members whose terms have expired shall continue to serve until their successors have been appointed.

(2) The judge shall appoint one alternate for each member of the board. No hearing shall be conducted unless three members or alternates are present and able to vote. Actions taken in a hearing shall be by majority vote. The lawyer shall be the chairperson of the board.

(3) If neither the member nor alternate is available, the judge shall appoint a second alternate.

(4) The Department of Public Institutions Department of Health and Human Services shall provide appropriate training to the members and alternate members of the board on a yearly basis. The department shall consult with consumer and family advocacy groups in the development and presentation of the training. After June 30, 1995, no person shall remain on the board or be eligible for appointment or reappointment as a member or alternate member of

the board unless he or she has attended and satisfactorily completed such mental health board training within the past two years. Members and alternate members shall be reimbursed for their time and expenses incurred in attending training in a manner and amount prescribed by the presiding judge of the district court in the district in which the board is located. Second alternates may be temporarily appointed for no longer than one year without meeting the training requirements of this subsection only if no other person who has received training is available in the district for temporary appointment.

Sec. 964. Section 83-1020, Reissue Revised Statutes of Nebraska, is amended to read:

83-1020. (1) Whenever any peace officer believes that any individual is a mentally ill dangerous person and that the harm described by section 83-1009 is likely to occur before mental health board proceedings under the Nebraska Mental Health Commitment Act may be invoked to obtain custody of the individual, such peace officer may immediately take such individual into custody, cause him or her to be taken into custody, or continue his or her custody if he or she is already in custody. A physician or psychologist shall have a limited privilege to hold an individual until a peace officer arrives if such physician or psychologist has probable cause to believe such individual is a mentally ill dangerous person. When a mental health center, a state hospital, or other government or private hospital has the capability to detain such an individual in the county in which the individual is found, the individual shall be placed in such facility.

(2)(a) Until January 1, 1991, a county with a city of the first class within its boundaries may contract with medical facilities inside or outside the county to provide a place where individuals subject to subsection (1) of this section may be held. Such individuals in such counties may be placed in a jail only if they cannot be adequately protected in other facilities.

(b) Commencing January 1, 1991, a county with a city of the first class within its boundaries shall contract with medical facilities inside or outside the county to provide a place where individuals subject to subsection (1) of this section shall be held. Such individuals in such counties shall not be placed in a jail.

(3) Each county other than a county with a city of the first class within its boundaries may contract with medical facilities inside or outside the county to provide a place where individuals subject to subsection (1) of this section shall be held. When such an individual is placed in a jail, the person in charge of the jail shall immediately notify the community mental health center for the area that the individual is being held and is in need of placement in an appropriate facility. The community mental health center shall identify an appropriate placement such as a mental health center, a state hospital, or other government or private hospital. Until a placement is identified, the community mental health center shall report to the jail every twenty-four hours on the status of the placement. Once an appropriate placement is identified, it shall be implemented within twenty-four hours.

(4) Community mental health centers shall collect data on all individuals subject to subsection (3) of this section and make regular reports to the Department of Public Institutions Department of Health and Human Services as required by the department.

Sec. 965. Section 83-1021, Reissue Revised Statutes of Nebraska, is amended to read:

83-1021. At the time of the admission, the peace officer responsible for taking an individual into custody shall execute a written certificate, as prescribed and provided by the Director of Medical Services for the Department of Public Institutions Department of Health and Human Services, which certificate shall allege that such officer believes that the subject in custody is a mentally ill dangerous person and that the harm described by section 83-1009 is likely to occur before mental health board proceedings under this act the Nebraska Mental Health Commitment Act may be invoked to obtain custody of the subject. The certificate shall contain a summary of the subject's behavior supporting such allegations. A copy of such certificate shall be forwarded immediately to the county attorney.

Sec. 966. Section 83-1028, Reissue Revised Statutes of Nebraska, is amended to read:

83-1028. (1) Upon the filing of the petition provided by sections 83-1025 and 83-1026 stating the county attorney's belief that the immediate custody of the subject is required for the reasons provided by sections 83-1025 and 83-1026 or if the subject has previously failed to appear as required after proper service upon him or her of a summons under section 83-1027, the mental health board may issue a warrant directing the sheriff to

take the subject into custody. When a mental health center, a state hospital, or other government or private hospital has the capability to detain such subject in the county in which the subject is found, the subject shall be placed in such facility, where he or she shall be held pending his or her hearing. At the time of execution of the warrant, the sheriff shall personally serve upon the subject, as well as his or her parent or legal guardian, if he or she is a minor or legally incompetent, a notice of the time and place fixed for the hearing and copies of the petition and list of rights provided by sections 83-1047 to 83-1067.

(2)(a) Until January 1, 1991, a county with a city of the first class within its boundaries may contract with medical facilities inside or outside the county to provide a place where subjects described in subsection (1) of this section may be held. Such subjects in such counties may be placed in a jail only if they cannot be adequately protected in other facilities.

(b) Commencing January 1, 1991, a county with a city of the first class within its boundaries shall contract with medical facilities inside or outside the county to provide a place where subjects described in subsection (1) of this section shall be held. Such subjects in such counties shall not be placed in a jail.

(3) Each county other than a county with a city of the first class within its boundaries shall contract with medical facilities inside or outside the county to provide a place where subjects described in subsection (1) of this section shall be held. When such a subject is placed in a jail, the person in charge of the jail shall immediately notify the community mental health center for the area that the subject is being held and is in need of placement in an appropriate facility. The community mental health center shall identify an appropriate placement such as a mental health center, a state hospital, or other government or private hospital. Until a placement is identified, the community mental health center shall report to the jail every twenty-four hours on the status of the placement. Once an appropriate placement is identified, it shall be implemented within twenty-four hours.

(4) Community mental health centers shall collect data on all subjects described in subsection (3) of this section and make regular reports to the Department of Public Institutions Department of Health and Human Services as required by the department.

Sec. 967. Section 83-1039, Reissue Revised Statutes of Nebraska, is amended to read:

83-1039. (1) Following a subject's mental health board adjudication as a mentally ill dangerous person in need of board-ordered treatment and pending the entry of an order of final disposition, the mental health board may order the subject retained in custody upon finding that the harm described in section 83-1009 is otherwise likely to occur before the entry of an order of final disposition. In the absence of such finding, the board shall order the subject released from custody on whatever reasonable conditions may be imposed by the board short of total custody which are the least restrictive alternatives required to assure the subject's appearance at a later disposition hearing and to prevent the harm described by section 83-1009 from occurring before such later hearing. If a subject is to be retained in custody and a mental health center, a state hospital, or other government or private hospital has the capability to detain such subject in the county in which the subject is found, the subject shall be placed in such facility.

(2)(a) Until January 1, 1991, a county with a city of the first class within its boundaries may contract with medical facilities inside or outside the county to provide a place where subjects described in subsection (1) of this section may be held. Such subjects in such counties may be placed in a jail only if they cannot be adequately protected in other facilities.

(b) Commencing January 1, 1991, a county with a city of the first class within its boundaries shall contract with medical facilities inside or outside the county to provide a place where subjects described in subsection (1) of this section shall be held. Such subjects in such counties shall not be placed in a jail.

(3) Each county other than a county with a city of the first class within its boundaries shall contract with medical facilities inside or outside the county to provide a place where subjects described in subsection (1) of this section shall be held. When such a subject is placed in a jail, the person in charge of the jail shall immediately notify the community mental health center for the area that the subject is being held and is in need of placement in an appropriate facility. The community mental health center shall identify an appropriate placement such as a mental health center, a state hospital, or other government or private hospital. Until a placement is identified, the community mental health center shall report to the jail every twenty-four hours on the status of the placement. Once an appropriate

placement is identified, it shall be implemented within twenty-four hours.

(4) Community mental health centers shall collect data on all subjects described in subsection (3) of this section and make regular reports to the Department of Public Institutions Department of Health and Human Services as required by the department.

Sec. 968. Section 83-1040, Reissue Revised Statutes of Nebraska, is amended to read:

83-1040. In order to aid the mental health board in determining the best available treatment alternative for a subject found to be a mentally ill dangerous person in need of board-ordered treatment, the board may request that a predisposition investigation be conducted by a qualified physician or a psychologist licensed to engage in the practice of psychology and report and recommendations be submitted to it by the program administrator, or his or her designee, of the comprehensive community mental health services program in the mental health region in which the proceedings against the subject were held under the Nebraska Mental Health Commitment Act. The board may also require the Director of Medical Services of the Department of Public Institutions Department of Health and Human Services or such director's designee to provide such assistance as may be necessary to place the subject of the petition in an appropriate facility or program pursuant to section 71-5003. The board may further request predisposition assistance from the Department of Social Services Department of Health and Human Services pursuant to section 68-1202 and any other statutory or other authority which it may have to provide such assistance. The board may finally obtain assistance from any other public or private agency or persons familiar with available treatment resources and qualified to render such assistance. The board may require the subject to submit to reasonable psychiatric and psychological evaluation calculated to assist the mental health board in its choice of the best treatment disposition.

Sec. 969. Section 83-1065, Reissue Revised Statutes of Nebraska, is amended to read:

83-1065. In addition to the rights granted subjects of petitions by any other provision of the Nebraska Mental Health Commitment Act or regulations governing the facility or program in which such subjects are being detained or treated, subjects in custody or receiving treatment under the act shall be entitled to the rights provided in sections 83-1066 and 83-1067. Such rights shall be provided by all institutions to which commitment is made and subject to reasonable rules and regulations adopted by the Department of Public Institutions Department of Health and Human Services pursuant to the Administrative Procedure Act.

Sec. 970. Section 83-1070, Reissue Revised Statutes of Nebraska, is amended to read:

83-1070. The Department of Public Institutions Department of Health and Human Services shall provide technical assistance to each county or group of counties requesting such assistance to carry out the purposes of sections 83-1020, 83-1028, and 83-1039.

Sec. 971. Section 83-1204, Reissue Revised Statutes of Nebraska, is amended to read:

83-1204. Department shall mean the Department of Public Institutions Department of Health and Human Services.

Sec. 972. Section 83-1206, Reissue Revised Statutes of Nebraska, is amended to read:

83-1206. Director shall mean the Director of Public Institutions Director of Health and Human Services.

Sec. 973. Section 83-1214, Reissue Revised Statutes of Nebraska, is amended to read:

83-1214. The department shall carry out the authority granted to it by the Department of Social Services Department of Health and Human Services Finance and Support pursuant to section 68-1035.01 and shall comply with all applicable provisions of the federal act identified in such section and of sections 68-1018 to 68-1035.

Sec. 974. Section 83-1215, Reissue Revised Statutes of Nebraska, is amended to read:

83-1215. The department shall carry out the authority granted to it by the Department of Social Services pursuant to section 68-1204 and shall comply with all applicable provisions of the federal act identified in such section and of sections 68-1202 to 68-1210.

Sec. 975. Section 83-1216, Reissue Revised Statutes of Nebraska, is amended to read:

83-1216. (1) By December 1, 1991, the department shall, in conjunction with persons with developmental disabilities, their families or designated advocates, service providers, state and local officials, and the

general public; define and develop a plan for a system of service coordination for persons with developmental disabilities and their families. This system may be implemented on March 1, 1992.

(2) By July 1, 1992, the department shall conduct a needs assessment and develop a services plan for each person found to be eligible for services.

(3) By September 15, 1992, the department shall submit a budget request to fund services required to address the assessed needs of eligible persons.

(4) Beginning July 1, 1995, persons determined to be eligible for specialized services who on or after September 6, 1993, graduate from high school, reach the age of twenty-one years, or are currently receiving services shall receive services in accordance with the Developmental Disabilities Services Act.

(5) (2) On or after July 1, 1995, the department shall provide directly or by contract service coordination to each person found to be eligible for services.

(6) (3) It is the intent of the Legislature that beginning July 1, 2000, all persons determined to be eligible for services shall receive services in accordance with the act. On or before December 1, 1991, the department shall submit a report to the Legislature and the Governor as to the number of persons anticipated to be served, what services would be needed, how the services would be developed, and the cost of serving all eligible persons.

(7) (4) It is the intent of the Legislature that the Department of Public Institutions Department of Health and Human Services take all possible steps to maximize funding in order to implement subsections (4) and (5) (1) and (2) of this section prior to the date these subsections become entitlements. It is the intent of the Legislature that funding sources within the Department of Social Services Department of Health and Human Services, the State Department of Education, specifically including the Division of Rehabilitation Services, and other agencies be utilized to the maximum extent possible.

Sec. 976. Section 83-1227, Reissue Revised Statutes of Nebraska, is amended to read:

83-1227. (1) The office of mental retardation Department of Health and Human Services shall, in conjunction with and with the approval of the Board of Nursing, adopt and promulgate rules and regulations establishing standards for the training of personnel for work in the field of special care needs including the use of special care procedures. The standards shall govern training curriculum requirements, competency testing, nursing supervision, and requirements for periodic reporting by the supervising registered nurse to the Board of Nursing.

(2) The Board of Nursing shall approve core training curricula specific to persons with developmental disabilities who have special care needs.

(3) For purposes of this section, special care procedure shall mean a procedure that is necessitated by a specific medical need which an individual with a developmental disability would have performed for himself or herself but for his or her disability if, in the opinion of the supervising registered nurse, the procedure can be performed safely by a trained special care provider. Special care procedures shall include such medically related procedures as gastrostomy tube-feeding, urine and blood glucose testing, clean intermittent catheterization, continuous nondiscretionary oxygen administration, routine colostomy and ileostomy care excluding irrigation, care of tracheostomy stoma excluding ties, and oral pharyngeal suctioning. Any other procedure shall be presented to the Board of Nursing for a determination on a case-by-case basis as to whether it may qualify as a special care procedure.

(4) If legislative Bill 830, Ninety-second legislature, First Session, 1991, becomes law, the duties imposed by this section on the office of mental retardation shall be carried out by the Department of Public Institutions.

Sec. 977. Section 84-205, Reissue Revised Statutes of Nebraska, is amended to read:

84-205. The duties of the Attorney General shall be:

(1) To appear and defend actions and claims against the state;

(2) To consult with and advise the county attorneys, when requested by them, in all criminal matters and in matters relating to the public revenue. He or she shall have authority to require aid and assistance of the county attorney in all matters pertaining to the duties of the Attorney General in the county of such county attorney and may, in any case brought to the Court of Appeals or Supreme Court from any county, demand and receive the assistance of the county attorney from whose county such case is brought;

(3) To give, when required, without fee, his or her opinion in writing upon all questions of law submitted to him or her by the Governor, head of any executive department, Secretary of State, State Treasurer, Auditor of Public Accounts, Board of Educational Lands and Funds, State Department of Education, Public Service Commission, or Legislature;

(4) At the request of the Governor, head of any executive department, Secretary of State, State Treasurer, Auditor of Public Accounts, Board of Educational Lands and Funds, State Department of Education, or Public Service Commission, to prosecute any official bond or any contract in which the state is interested which is deposited with any of them and to prosecute or defend for the state all civil or criminal actions and proceedings relating to any matter connected with any of such officers' departments if, after investigation, he or she is convinced there is sufficient legal merit to justify the proceeding. Such officers shall not pay or contract to pay from the funds of the state any money for special attorneys or counselors-at-law unless the employment of such special counsel is made upon the written authorization of the Governor or the Attorney General;

(5) To enforce the proper application of money appropriated by the Legislature to the various funds of the state and prosecute breaches of trust in the administration of such funds;

(6) To prepare, when requested by the Governor, Secretary of State, State Treasurer, or Auditor of Public Accounts or any other executive department, proper drafts for contracts, forms, or other writings which may be wanted for the use of the state and report to the Legislature, whenever requested, upon any business pertaining to the duties of his or her office;

(7) To pay all money received, belonging to the people of the state, immediately upon receipt thereof, into the state treasury;

(8) To keep a record in proper books provided for that purpose at the expense of the state, a register of all actions and demands prosecuted or defended by him or her in behalf of the state and all proceedings had in relation thereto, and deliver the same to his or her successor in office;

(9) To appear for the state and prosecute and defend all civil or criminal actions and proceedings in the Court of Appeals or Supreme Court in which the state is interested or a party. When requested by the Governor or the Legislature, the Attorney General shall appear for the state and prosecute or defend any action or conduct any investigation in which the state is interested or a party before any court, officer, board, tribunal, or commission;

(10) To prepare and promulgate model rules of procedure appropriate for use by as many agencies as possible. The Attorney General shall add to, amend, or revise the model rules as necessary for the proper guidance of agencies; and

(11) To create a Child Protection Division to be staffed by at least three assistant attorneys general who each have five or more years of experience in the prosecution or defense of felonies or misdemeanors, including two years in the prosecution or defense of crimes against children. Upon the written request of a county attorney, the division shall provide consultation and advise and assist in the preparation of the trial of any case involving a crime against a child, including, but not limited to, the following offenses:

- (a) Murder as defined in sections 28-303 and 28-304;
- (b) Manslaughter as defined in section 28-305;
- (c) Kidnapping as defined in section 28-313;
- (d) False imprisonment as defined in sections 28-314 and 28-315;
- (e) Child abuse as defined in section 28-707;
- (f) Pandering as defined in section 28-802;
- (g) Debauching a minor as defined in section 28-805; and
- (h) Offenses listed in sections 28-813, 28-813.01, and 28-1463.03.

Any offense listed in subdivisions (a) through (h) of this subdivision shall include all inchoate offenses pursuant to the Nebraska Criminal Code and compounding a felony pursuant to section 28-301. Such crimes shall not include matters involving dependent and neglected children, infraction violations, custody or visitation matters, or child support. If the county attorney declines in writing to prosecute a case involving a crime against a child because of an ethical consideration, including the presence or appearance of a conflict of interest, or for any other reason, the division shall, upon the receipt of a written request of the county attorney, the ~~Department of Social Services~~ Department of Health and Human Services, the minor child, the parents of the minor child, or any other interested party, investigate the matter and either decline to prosecute the matter or initiate the appropriate criminal proceedings in a court of proper jurisdiction.

For purposes of this subdivision, child or children shall mean an

individual or individuals sixteen years of age or younger.

Sec. 978. Section 84-1409, Reissue Revised Statutes of Nebraska, is amended to read:

84-1409. For purposes of sections 84-1408 to 84-1414, unless the context otherwise requires:

(1) Public body shall mean (a) governing bodies of all political subdivisions of the State of Nebraska, (b) governing bodies of all agencies, now or hereafter created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (c) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies, now or hereafter created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (d) the Certificate of Need Review Committee, (e) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (f) advisory committees of the bodies referred to in subdivisions (a), (b), and (c) of this subdivision, and (g) instrumentalities exercising essentially public functions. Sections 84-1408 to 84-1414 shall not apply to (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, ~~nor shall such sections apply to (ii) judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) meetings of the Policy Cabinet created in section 9 of this act;~~

(2) Meeting shall mean all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing shall mean conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

Sec. 979. Section 84-1511, Revised Statutes Supplement, 1995, is amended to read:

84-1511. (1) The Public Employees Retirement Board shall establish a comprehensive preretirement planning program for state patrol officers, state employees, judges, county employees, and school employees who are members of the retirement systems established pursuant to Chapter 23, article 23, Chapter 24, article 7, Chapter 79, articles 10 and 15, Chapter 81, article 20, and Chapter 84, article 13. The program shall provide information and advice regarding the many changes employees face upon retirement including, but not limited to, changes in physical and mental health, housing, family life, leisure activity, and retirement income.

(2) The preretirement planning program shall be available to all employees who have attained the age of fifty or are within five years of qualifying for retirement or early retirement under their retirement systems.

(3) The preretirement planning program shall include information on the federal and state income tax consequences of the various annuity or retirement benefit options available to the employee, information on social security benefits, information on various local, state, and federal government programs and programs in the private sector designed to assist elderly persons, and information and advice the board deems valuable in assisting public employees in the transition from public employment to retirement.

(4) The board shall work with the Department on Aging Department of Health and Human Services, the personnel division of the Department of Administrative Services, employee groups, and any other governmental agency, including political subdivisions or bodies whose services or expertise may enhance the development or implementation of the preretirement planning program.

(5) Funding to cover the expense of the preretirement planning program shall be charged back to each retirement fund on a pro rata share based on the number of employees in each plan.

(6) The employer shall provide each eligible employee leave with pay to attend up to two preretirement planning programs. For purposes of this subsection, leave with pay shall mean a day off paid by the employer and shall not mean vacation, sick, personal, or compensatory time. An employee may choose to attend a program more than twice, but such leave shall be at the expense of the employee and shall be at the discretion of the employer. An eligible employee shall not be entitled to attend more than one preretirement planning program per fiscal year prior to actual election of retirement.

(7) A nominal registration fee shall be charged each person attending a preretirement planning program to cover the costs for meals, meeting rooms, or other expenses incurred under such program.

Sec. 980. Sections 36 to 762, 765 to 783, 785 to 979, 982, and 985 of this act become operative January 1, 1997. Sections 763, 764, and 983 of this act become operative October 1, 1997. Sections 784 and 984 of this act become operative July 1, 1998. The other sections of this act become operative on their effective date.

Sec. 981. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 982. Original sections 2-3932, 12-102, 12-610, 12-611, 12-612, 12-1106, 13-1207, 28-326, 28-327, 28-327.01, 28-327.03, 28-343, 28-345, 28-356, 28-372, 28-380, 28-401, 28-411, 28-412, 28-710, 28-713, 28-728, 28-729, 28-730, 28-1432, 29-2290, 29-2923, 29-2925 to 29-2932, 29-2934 to 29-2936, 30-2487, 31-708, 37-215.01, 37-1254.05, 42-106, 42-121, 42-705, 42-723, 42-903, 43-104.07, 43-106.01, 43-106.02, 43-107, 43-117 to 43-118, 43-120, 43-122, 43-123.01, 43-149, 43-156, 43-161 to 43-164, 43-247, 43-250, 43-254, 43-284 to 43-284.02, 43-285, 43-287.03 to 43-287.06, 43-289, 43-290, 43-292 to 43-294, 43-296, 43-2,100, 43-2,101, 43-503, 43-504.01, 43-507, 43-508, 43-511, 43-512.02, 43-512.05, 43-512.11 to 43-512.15, 43-512.17, 43-515, 43-522 to 43-525, 43-529, 43-701, 43-702, 43-705 to 43-708, 43-901, 43-902 to 43-905, 43-907 to 43-910, 43-913, 43-1005, 43-1301, 43-1303, 43-1304, 43-1309, 43-1310, 43-1319, 43-1706, 43-1902, 43-1903, 43-2003, 43-2411, 43-2503, 43-2505, 43-2507, 43-2508 to 43-2511, 43-2512, 43-2515, 43-2625, 44-771, 44-772, 44-782, 44-2847, 44-2901, 44-2904, 44-32,119, 44-32,120, 44-32,127, 44-32,128, 44-32,134, 44-32,136, 44-32,152, 44-32,153, 44-32,156, 44-32,157, 44-32,163, 44-32,165, 44-32,176, 46-674.06, 46-674.20, 46-1011, 46-1018, 46-1207, 46-1217, 46-1225, 46-1235, 46-1235.01, 46-1237.02, 46-1240.05, 47-408, 54-747, 60-493, 60-6,104, 60-6,107, 60-6,201, 68-126, 68-128 to 68-130, 68-134, 68-214, 68-309, 68-312, 68-313, 68-621, 68-703.01, 68-716 to 68-718, 68-1001, 68-1001.01, 68-1002, 68-1005, 68-1007, 68-1008, 68-1014 to 68-1017, 68-1023, 68-1026, 68-1033 to 68-1035, 68-1036, 68-1043, 68-1101, 68-1103 to 68-1105, 68-1205, 68-1207, 68-1207.01, 68-1210, 68-1402, 68-1403, 68-1405, 68-1503, 68-1514, 70-1603, 70-1605, 71-140, 71-141 to 71-144, 71-153, 71-158, 71-158.19, 71-165, 71-169, 71-180, 71-181, 71-185.01, 71-186, 71-188, 71-193.01, 71-193.03, 71-193.13 to 71-193.15, 71-193.19, 71-193.20, 71-193.22, 71-1,105 to 71-1,107.02, 71-1,107.04 to 71-1,107.08, 71-1,107.10, 71-1,107.11, 71-1,107.14, 71-1,136.03, 71-1,137, 71-1,139 to 71-1,140, 71-1,141, 71-1,144.01, 71-1,145, 71-1,145.01, 71-1,147.01, 71-1,147.11, 71-1,147.19, 71-1,147.20, 71-1,147.22, 71-1,147.24 to 71-1,147.26, 71-1,147.28, 71-1,147.30, 71-1,147.31, 71-1,190.01, 71-1,191, 71-1,238, 71-217, 71-223.01, 71-354, 71-355, 71-501, 71-502 to 71-502.03, 71-503, 71-504, 71-505, 71-519 to 71-524, 71-605.01, 71-610, 71-615, 71-616, 71-617.07 to 71-617.10, 71-626, 71-626.01, 71-627.01, 71-629, 71-630, 71-645, 71-902 to 71-905, 71-1341, 71-1401, 71-1403, 71-1405, 71-1617, 71-1635, 71-1710, 71-1737, 71-1745, 71-1768, 71-1802 to 71-1805, 71-2002, 71-2003, 71-2018, 71-2021, 71-2021.02, 71-2022, 71-2026, 71-2027, 71-2051, 71-2202, 71-2203, 71-2206, 71-2207, 71-2208, 71-2226 to 71-2228, 71-2408, 71-2409, 71-2503, 71-2506, 71-2509, 71-2610, 71-2617, 71-2619 to 71-2621, 71-2809, 71-3102, 71-3104, 71-3305, 71-3306, 71-3504, 71-3601, 71-3603, 71-3608, 71-3610 to 71-3614, 71-4302 to 71-4306, 71-4401, 71-4635, 71-4701, 71-4813, 71-4816, 71-4901 to 71-4904, 71-5002, 71-5017, 71-5024, 71-5026, 71-5032, 71-5114, 71-5205, 71-5303, 71-5304.01, 71-5304.02, 71-5306, 71-5310 to 71-5311, 71-5402, 71-5404, 71-5517, 71-5707, 71-5710, 71-5711, 71-5713, 71-5808, 71-5825, 71-5902, 71-5904, 71-5905, 71-5907, 71-6010, 71-6011, 71-6040, 71-6043, 71-6045, 71-6208, 71-6221, 71-6702, 71-6717, 71-6808, 71-6809, 71-6831, 72-249, 72-1302 to 72-1304, 76-1304, 76-14,102, 77-27,162, 77-27,164, 77-27,165, 77-27,173, 79-444.01 to 79-444.03, 79-445, 79-4,133, 79-4,134, 79-4,207, 79-1254.09, 79-1457, 79-3326, 79-3330, 79-3341, 79-3342, 79-3348, 79-3503, 79-3903 to 79-3905, 79-3910, 80-304, 80-306, 80-307, 80-606, 81-101, 81-102, 81-502.01, 81-505.01, 81-601 to 81-602, 81-604.01 to 81-604.03, 81-637, 81-638, 81-651, 81-652, 81-654, 81-661, 81-663, 81-664, 81-676 to 81-680, 81-829.73, 81-829.74, 81-1021, 81-1108.27, 81-1108.28, 81-1139.01, 81-1281, 81-1316, 81-15,170, 81-2205 to 81-2207, 81-2213, 81-2226, 81-2229 to 81-2235, 81-2239, 81-2241, 81-2250, 81-2255, 81-2260, 81-2265, 81-2267, 81-2268, 81-2270, 81-2271, 83-101.08, 83-107.01, 83-108, 83-108.04, 83-109, 83-111 to 83-116, 83-120, 83-130, 83-133, 83-135, 83-139, 83-140, 83-144, 83-153 to 83-156, 83-176, 83-180, 83-1,147 to 83-1,149, 83-210.02 to 83-210.07, 83-211, 83-212, 83-218, 83-223, 83-227.02, 83-305.03, 83-306, 83-307, 83-313, 83-348, 83-351, 83-355, 83-363, 83-365, 83-376, 83-380 to 83-383, 83-391, 83-472, 83-802, 83-901, 83-922, 83-925.02, 83-925.03, 83-1018,



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Sec. 983. Original sections 71-6319 and 71-6321, Revised Statutes Supplement, 1994, are repealed.

Sec. 984. Original section 71-7522, Revised Statutes Supplement, 1994, is repealed.

Sec. 985. The following sections are outright repealed: Sections 68-701, 68-701.01, 68-701.02, 68-703, 71-2609, 79-3907, 81-603, 81-604, 81-2214, 81-2240, 83-101.01 to 83-101.05, 83-1202.02, 90-221, 90-222, 90-229 to 90-237, 90-249, 90-250, and 90-256 to 90-259, Reissue Revised Statutes of Nebraska, sections 68-1019.07, 71-2618, and 71-4821, Revised Statutes Supplement, 1994, sections 44-6703, 44-6704, 68-723, 81-2236, 81-2272, and 83-129, Revised Statutes Supplement, 1995, and section 79-3909, Reissue Revised Statutes of Nebraska, as amended by section 878, Legislative Bill 900, Ninety-fourth Legislature, Second Session, 1996.

Sec. 986. Since an emergency exists, this act takes effect when passed and approved according to law.