

## LEGISLATIVE BILL 43

Approved by the Governor April 9, 1996

Introduced by Wickersham, 49

AN ACT relating to the Nebraska Disaster and Civil Defense Act of 1973; to amend sections 18-1714, 23-2519, 48-126.01, 55-120, 60-6,164, 68-703, 81-829.31, 81-829.36 to 81-829.41, 81-829.43, 81-829.46 to 81-829.62, 81-829.64, 81-829.65, 81-829.69, 81-829.70, 81-829.72, 81-829.73, 81-1120.17, 81-1120.25, and 86-702, Reissue Revised Statutes of Nebraska, sections 2-4901, 18-1712, 31-727, 31-740, 31-744, 48-115, 71-5120, and 71-7318, Revised Statutes Supplement, 1994, sections 77-3439 and 81-829.42, Revised Statutes Supplement, 1995, and section 81-829.45, Reissue Revised Statutes of Nebraska, as amended by section 2, Legislative Bill 966, Ninety-fourth Legislature, Second Session, 1996; to add, change, and eliminate provisions relating to civil defense; to provide for emergency management services and operations; to provide for expenditures for aerial fire suppression; to eliminate provisions relating to an oath and to assent to a federal law; to harmonize provisions; to repeal the original sections; and to outright repeal sections 81-829.44, 81-829.63, and 81-829.74, Reissue Revised Statutes of Nebraska.

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

Section 1. 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 Nebraska Emergency Management Agency, Conservation and Survey Division and Cooperative Extension Service of the University of Nebraska, Department of Agriculture, Department of Health, 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 Committee on Agriculture Committee of the Legislature and the chairperson of the Committee on 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 Climate Assessment Response 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. 2. Section 18-1712, Revised Statutes Supplement, 1994, is amended to read:

18-1712. Any city or village in the State of Nebraska may pay from municipal funds the cost of training and the expenses of such members from each fire company as designated by its governing body to attend the fire training school jointly sponsored by the Nebraska State Volunteer Firefighter's Association, the State Fire Marshal, the Nebraska Forest Service-Fire Control, a division of the University of Nebraska Institute of Agriculture and Natural Resources, and the ~~Civil~~ Defense Nebraska Emergency Management Agency and held periodically at the state fire training school.

Sec. 3. Section 18-1714, Reissue Revised Statutes of Nebraska, is amended to read:

18-1714. Any city or village in the State of Nebraska is hereby

authorized to send any person or persons designated by its governing body to attend any fire training school operating within the State of Nebraska and that has been approved as a proper fire department training school for such purposes by the State Fire Marshal and the Civil Defense Nebraska Emergency Management Agency.

Sec. 4. Section 23-2519, Reissue Revised Statutes of Nebraska, is amended to read:

23-2519. The county service shall be divided into the classified service and the unclassified service. All officers and positions of the county shall be in the classified service unless specifically designated as being in the unclassified service established by sections 23-2517 to 23-2533. All county employees who have permanent status under any other act prior to the passage of such sections 23-2517 to 23-2533 shall have status under such sections without further qualification. Positions in the unclassified service shall not be governed by such sections and shall include the following:

- (1) County officers elected by popular vote and persons appointed to fill vacancies in such elective offices;
- (2) The county personnel officer and the administrative assistant to the board of county commissioners;
- (3) Bailiffs;
- (4) Department heads and one principal assistant or chief deputy for each county department. When more than one principal assistant or chief deputy is mandated by law, all such positions shall be in the unclassified service;
- (5) Members of boards and commissions appointed by the board of county commissioners;
- (6) Persons employed in a professional or scientific capacity to make or conduct a temporary and special investigation or examination on behalf of the board of county commissioners;
- (7) Attorneys;
- (8) Physicians;
- (9) Employees of the division of public health and welfare and civil defense who are covered by the State Merit System an emergency management organization; and

(10) Deputy sheriffs.

Nothing in such sections shall be construed as precluding the appointing authority from filling any positions in the unclassified service in the manner in which positions in the classified service are filled.

Sec. 5. Section 31-727, Revised Statutes Supplement, 1994, is amended to read:

31-727. (1) A majority of the owners having an interest in the real property within the limits of a proposed sanitary and improvement district, situated in one or more counties in this state, may form a sanitary and improvement district for the purpose purposes of installing electric service lines and conduits, a sewer system, a water system, a civil defense an emergency management warning system, a system of sidewalks, public roads, streets, and highways, public waterways, docks, or wharfs, and related appurtenances, contracting for water for fire protection and for resale to residents of the district, contracting for police protection and security services, and contracting for gas and for electricity for street lighting for the public streets and highways within such proposed district, constructing and contracting for the construction of dikes and levees for flood protection for the district, and acquiring, improving, and operating public parks, playgrounds, and recreational facilities.

The sanitary and improvement district 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 such sanitary and improvement district is located for any public purpose specifically authorized in this section.

Sanitary and improvement districts located in any county which has a city of the metropolitan class within its boundaries or in any adjacent county which has adopted a comprehensive plan may contract with other sanitary and improvement districts to acquire, build, improve, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts.

Nothing in this section shall authorize districts to purchase electric service and resell the same.

The district, in lieu of establishing its own water system, may contract with any utilities district, municipality, or corporation for the installation of a water system and for the provision of water service for fire protection and for the use of the residents of the district.

For the purposes listed in this section, such majority of the owners

may make and sign articles of association in which shall be stated (a) the name of the district, (b) that the district will have perpetual existence, (c) the limits of the district, (d) the names and places of residence of the owners of the land in the proposed district, (e) the description of the several tracts of land situated in the district owned by those who may organize the district, (f) the name or names and the description of the real estate owned by such owners as do not join in the organization of the district but who will be benefited thereby, and (g) whether the purpose of the corporation is installing gas and electric service lines and conduits, installing a sewer system, installing a water system, installing a system of public roads, streets, and highways, public waterways, docks, or wharfs, and related appurtenances, contracting for water for fire protection and for resale to residents of the district, contracting for police protection and security services, contracting for street lighting for the public streets and highways within the proposed district, constructing or contracting for the construction of dikes and levees for flood protection of the proposed district, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, or, when permitted by this section, contracting with other sanitary and improvement districts to acquire, build, improve, and operate public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, contracting for any public purpose specifically authorized in this section, or combination of any one or more of such purposes, or all of such purposes. Such owners of real estate as are unknown may also be set out in the articles as such.

No sanitary and improvement district may own or hold land in excess of ten acres, unless such land so owned and held by such district is actually used for a public purpose, as provided in this section, within three years of its acquisition. Any sanitary and improvement district which has acquired land in excess of ten acres in area and has not devoted the same to a public purpose, as set forth in this section, within three years of the date of its acquisition, shall devote the same to a use set forth in this section or shall divest itself of such land. When a district divests itself of land pursuant to this section, it shall do so by sale at public auction to the highest bidder after notice of such sale has been given by publication at least three times for three consecutive weeks prior to the date of sale in a legal newspaper of general circulation within the area of the district.

(2) The articles of association shall further state that the owners of real estate so forming the district for such purposes are willing and obligate themselves to pay the tax or taxes which may be levied against all the property in the district and special assessments against the real property benefited which may be assessed against them to pay the expenses that may be necessary to install a sewer or water system or both a sewer and water system, the cost of water for fire protection, the cost of grading, changing grade, paving, repairing, graveling, regravelling, widening, or narrowing sidewalks and roads, resurfacing or relaying existing pavement, or otherwise improving any public roads, streets, or highways 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, the cost of constructing public waterways, docks, or wharfs, and related appurtenances, the cost of constructing or contracting for the construction of dikes and levees for flood protection for the district, the cost of contracting for water for fire protection and for resale to residents of the district, the cost of contracting for police protection and security services, the cost of electricity for street lighting for the public streets and highways within the district, the cost of installing gas and electric service lines and conduits, the cost of acquiring, improving, and operating public parks, playgrounds, and recreational facilities, and, when permitted by this section, the cost of contracting for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities, and the cost of contracting for any public purpose specifically authorized in this section, as provided by law.

(3) The articles shall propose the names of five or more trustees who are owners of real estate located in the proposed district to serve as a board of trustees until their successors are elected and qualified if such district is organized. No corporation formed or hereafter formed shall perform any new functions, other than those for which the corporation was formed, without amending its articles of association to include the new function or functions.

(4) After the articles are signed, the same shall be filed in the office of the clerk of the district court of the county in which such sanitary and improvement district is located or, if such sanitary and improvement

district is composed of tracts or parcels of land in two or more different counties, in the office of the clerk of the district court for the county in which the greater portion of such proposed sanitary and improvement district is located, together with a petition praying that the same may be declared a sanitary and improvement district under sections 31-727 to 31-762.

(5) For the purposes of sections 31-727 to 31-762 and 31-771 to 31-780, unless the context otherwise requires:

(a) Public waterways shall mean artificially created boat channels dedicated to public use and providing access to navigable rivers or streams;

(b) Operation and maintenance expenses shall mean and include, but not be limited to, salaries, cost of materials and supplies for operation and maintenance of the district's facilities, cost of ordinary repairs, replacements, and alterations, cost of surety bonds and insurance, cost of audits and other fees, and taxes;

(c) Capital outlay shall mean expenditures for construction or reconstruction of major permanent facilities having an expected long life, including, but not limited to, street paving and curbs, storm and sanitary sewers, and other utilities;

(d) Warrant shall mean an investment security under article 8, Uniform Commercial Code, in the form of a short-term, interest-bearing order payable on a specified date issued by the board of trustees or administrator of a sanitary and improvement district to be paid from funds expected to be received in the future, including, but not limited to, property tax collections, special assessment collections, and proceeds of sale of general obligation bonds;

(e) General obligation bond shall mean an investment security under article 8, Uniform Commercial Code, in the form of a long-term, written promise to pay a specified sum of money, referred to as the face value or principal amount, at a specified maturity date or dates in the future, plus periodic interest at a specified rate; and

(f) Administrator shall mean the person appointed by the Auditor of Public Accounts pursuant to section 31-771 to manage the affairs of a sanitary and improvement district and to exercise the powers of the board of trustees during the period of the appointment to the extent prescribed in sections 31-727 to 31-780.

Sec. 6. 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~~ emergency management 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, regravelling, 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.

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 in which such improvements are located. Plans 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 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 shall 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. 7. Section 31-744, Revised Statutes Supplement, 1994, is amended to read:

31-744. Whenever the board of trustees or the administrator deems it advisable or necessary to build, reconstruct, purchase, or otherwise acquire a water system, a ~~civil defense~~ emergency management warning system, a sanitary sewer system, a sanitary and storm sewer or sewage disposal plant, ~~or~~ or pumping stations, ~~or~~ or sewer outlets, gas or electric service lines and conduits constructed or to be constructed in whole or in part inside or outside of the district, a system of sidewalks, public roads, streets, and highways wholly within the district, public waterways, docks, or wharfs, and related appurtenances, wholly within the district, or a public park or parks, playgrounds, and recreational facilities wholly within the district, to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, or to contract for the installation and operation of a water system, it shall declare the advisability and necessity therefor in a proposed resolution, which resolution, in the case of pipe sewer construction, shall state the kinds of pipe proposed to be used, shall include cement concrete pipe and vitrified clay pipe and any other material deemed suitable, shall state the size or sizes and kinds of sewers proposed to be constructed, and shall designate the location and terminal points thereof. If

it is proposed to construct a water system, disposal plants, pumping stations, outlet sewers, gas or electric service lines and conduits, or a system of sidewalks, public roads, streets, or highways, or public waterways, docks, or wharfs, to construct or contract for the construction of dikes and levees for flood protection for the district, or public parks, playgrounds, or recreational facilities, or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall refer to the plans and specifications thereof which have been made and filed before the publication of such resolution by the engineer employed for such purpose. If it is proposed to purchase or otherwise acquire a water system, a sanitary sewer system, a sanitary or storm water sewer, sewers, sewage disposal plant, pumping stations, sewer outlets, gas or electric service lines and conduits, or public parks, playgrounds, or recreational facilities or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall state the price and conditions of the purchase or how such facility is being acquired. If it is proposed to contract for the installation and operation of a water system for fire protection and for the use of the residents of the district, to contract for the construction of dikes and levees for flood protection for the district or gas or electric service lines and conduits, to 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, or to contract, as permitted by section 31-727, with other sanitary and improvement districts for acquiring, building, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, the resolution shall state the principal terms of the proposed agreement and how the cost thereof is to be paid. When gas or electric service lines and conduits are among the improvements that are proposed to be constructed, purchased, or otherwise acquired or contracted for, and no construction specifications and standards therefor have been established by the municipality having zoning jurisdiction over the area where such improvements are to be located, or when such service lines and conduits are not to be located within any municipality's area of zoning jurisdiction, the plans and specifications for and the method of construction of such service lines and conduits shall be approved by the supplier of gas or electricity within whose service or customer area they are to be located. Such engineer shall also make and file, prior to the publication of such resolution, an estimate of the total cost of the proposed improvement. The proposed resolution shall state the amount of such estimated cost. The board of trustees or the administrator shall assess, to the extent of special benefits, the cost of such improvements upon properties specially benefited thereby. The resolution, mentioned in this section, shall state the outer boundaries of the district or districts in which it is proposed to make special assessments.

Sec. 8. Section 48-115, Revised Statutes Supplement, 1994, is amended to read:

48-115. The terms employee and worker are used interchangeably and have the same meaning throughout the Nebraska Workers' Compensation Act. Such terms include the plural and all ages and both sexes and shall be construed to mean:

(1) Every person in the service of the state or of any governmental agency created by it, including the Nebraska National Guard and members of the military forces of the State of Nebraska, under any appointment or contract of hire, expressed or implied, oral or written. For the purposes of the Nebraska Workers' Compensation Act, (a) volunteer firefighters of any fire department of any rural or suburban fire protection district, city, or village, which fire department is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such rural or suburban fire protection district, city, or village while in the performance of their duties as members of such department and shall be considered as having entered and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a fire station or other place where firefighting equipment that their company or unit is to use is located or to any emergency that the volunteer firefighters may be officially called to participate in, (b) members of such volunteer fire department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the chief of the fire department for membership therein to



the board of directors, the mayor and city commission, the mayor and council, or the chairperson and board of trustees, as the case may be, and upon confirmation shall be deemed employees of the rural or suburban fire protection district, city, or village, (c) members of such fire department after confirmation to membership may be removed by a majority vote of such board of directors, commission, council, or board and thereafter shall not be considered employees of such rural or suburban fire protection district, city, or village, (d) firefighters of any fire department of any rural or suburban fire protection district, city, or village shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside of the corporate limits of their respective districts, cities, or villages, but only if directed to do so by the chief of the fire department or some person authorized to act for such chief, (e) any members of the state Civil Defense Nebraska Emergency Management Agency, any local city, village, county, or interjurisdictional emergency management organization, or any state emergency response team, which agency, organization, or team for civil defense, or any civil defense mobile support unit; which state Civil Defense Agency, local organization for civil defense, or civil defense mobile support unit is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such state Civil Defense Agency; local organization for civil defense, or civil defense mobile support unit agency, organization, or team while in the performance of their duties as members of such state Civil Defense Agency, local organization, or mobile support unit agency, organization, or team, (f) any person fulfilling conditions of probation, or community service as defined in section 29-2277, pursuant to any order of any court of this state who shall be working for a governmental body, or agency as defined in section 29-2277, pursuant to any condition of probation, or community service as defined in section 29-2277, shall be deemed an employee of the governmental body or agency for the purposes of the Nebraska Workers' Compensation Act, (g) volunteer ambulance drivers and attendants who provide ambulance service for any county, city, or village or any combination of such county, city, or village under the authority of section 13-303 shall be deemed employees of the county, city, or village or combination thereof while in the performance of their duties as such ambulance drivers or attendants and shall be considered as having entered into and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a hospital or other place where the ambulance they are to use is located or to any emergency in which the volunteer drivers or attendants may be officially called to participate, but such volunteer ambulance drivers or attendants shall be considered as acting in the performance and within the scope of their duties outside of the corporate limits of their respective county, city, or village only if officially directed to do so, (h) before such volunteer ambulance drivers or attendants shall be entitled to benefits under the Nebraska Workers' Compensation Act, they shall be confirmed to perform such duties by the county board or the governing body of the city or village or combination thereof, as the case may be, and upon such confirmation shall be deemed employees of the county, city, or village or combination thereof and may be removed by majority vote of such county board or governing body of the city or village, (i) members of a law enforcement reserve force appointed in accordance with section 81-1438 shall be deemed employees of the county or city for which they were appointed, and (j) any inmate working for the Department of Correctional Services pursuant to section 81-1827 shall be deemed an employee of the Department of Correctional Services solely for purposes of the Nebraska Workers' Compensation Act; and

(2) Every person in the service of an employer who is engaged in any trade, occupation, business, or profession as described in section 48-106 under any contract of hire, expressed or implied, oral or written, including aliens and also including minors, who for the purpose of making election of remedies under the Nebraska Workers' Compensation Act shall have the same power of contracting and electing as adult employees.

As used in subdivisions (1) and (2) of this section, the terms employee and worker shall not be construed to include any person whose employment is not in the usual course of the trade, business, profession, or occupation of his or her employer.

If an employee subject to the Nebraska Workers' Compensation Act suffers an injury on account of which he or she or, in the event of his or her death, his or her dependents would otherwise have been entitled to the benefits provided by such act, the employee or, in the event of his or her death, his or her dependents shall be entitled to the benefits provided under such act, if the injury or injury resulting in death occurred within this state, or if at the time of such injury (a) the employment was principally



localized within this state, (b) the employer was performing work within this state, or (c) the contract of hire was made within this state.

(3) Every executive officer of a corporation elected or appointed under the provisions or authority of the charter, articles of incorporation, or bylaws of such corporation shall be an employee of such corporation under the Nebraska Workers' Compensation Act, except that an executive officer of a Nebraska corporation who owns twenty-five percent or more of the common stock of such corporation may waive his or her right to coverage. Such waiver shall be in writing and filed with the secretary of the corporation and the Nebraska Workers' Compensation Court. Such waiver, as prescribed by the compensation court, shall include a statement in substantially the following form: Notice. I am aware that health and accident insurance policies frequently exclude coverage for personal injuries caused by accident or occupational disease arising out of and in the course of employment. Before waiving my rights to coverage under the Nebraska Workers' Compensation Act, I certify that I have carefully examined the terms of my health and accident coverage. Such waiver shall become effective from the date of receipt by the compensation court and shall remain in effect until the waiver is terminated by the officer in writing and filed with the secretary of the corporation and the compensation court. The termination of the corporate executive officer's waiver shall be effective upon receipt of the termination by the compensation court. It shall not be permissible to terminate a waiver prior to one year after the waiver has become effective.

(4) Each individual employer, partner, limited liability company member, or self-employed person who is actually engaged in the individual employer's, partnership's, limited liability company's, or self-employed person's business on a substantially full-time basis may elect to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act, if he or she (a) files with his or her current workers' compensation insurer written notice of election to have the same rights as an employee only for purposes of workers' compensation insurance coverage acquired by and for such individual employer, partner, limited liability company member, or self-employed person or (b) gives notice of such election and such insurer collects a premium for such coverage acquired by and for such individual employer, partner, limited liability company member, or self-employed person. This election shall be effective from the date of receipt by the insurer for the current policy and subsequent policies issued by such insurer until such time as such employer, partner, limited liability company member, or self-employed person files a written statement withdrawing such election with the current workers' compensation insurer or until such coverage by such insurer is terminated, whichever occurs first. When so included, the individual employer, partner, limited liability company member, or self-employed person shall have the same rights as an employee only with respect to the benefits provided under the Nebraska Workers' Compensation Act. If any individual employer, partner, limited liability company member, or self-employed person who is actually engaged in the individual employer's, partnership's, limited liability company's, or self-employed person's business on a substantially full-time basis has not elected to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act pursuant to this subdivision and any health, accident, or other insurance policy issued to or renewed by such person after July 10, 1984, contains an exclusion of coverage, if the insured is otherwise entitled to workers' compensation coverage, such exclusion shall be null and void as to such person.

Sec. 9. Section 48-126.01, Reissue Revised Statutes of Nebraska, is amended to read:

48-126.01. In determining the compensation to be paid any member of the military forces of this state, any member of a law enforcement reserve force, any member of a volunteer fire department in any rural or suburban fire protection district, city, or village, or any member of the state Civil Defense Nebraska Emergency Management Agency, any local organization for civil defense or civil defense mobile support unit city, village, county, or interjurisdictional emergency management organization, or any state emergency response team, or any member of a volunteer ambulance unit, which military forces, law enforcement reserve force, fire department, state Civil Defense Agency, local organization for civil defense or civil defense mobile support unit emergency management agency, organization, or team, or volunteer ambulance unit is regularly organized under the laws of the State of Nebraska, or any person fulfilling conditions of probation, or community service as defined in section 29-2277, pursuant to any order of any court of this state who shall be working for a governmental body, or agency as defined in section 29-2277, pursuant to any condition of probation, or community service as defined in section 29-2277, for injuries resulting in disability or death

received in the performance of his or her duties as a member of such military forces, reserve force, department, agency, organization, team, or unit, or pursuant to an order of any court, the wages of such a member or person shall be taken to be those received by him or her from his or her regular employer, and he or she shall receive such proportion thereof as he or she is entitled to under the provisions of section 48-121. If ~~7~~ PROVIDED, if such member or person is not regularly employed by some other person, for the purpose of such determination, it shall be deemed and assumed that he or she is receiving income from his or her business or from other employment equivalent to wages in an amount one and one-half times the maximum compensation rate for total disability. If the wages received for the performance of duties as a member of such military forces, reserve force, department, agency, organization, team, or unit exceed the wages received from a regular employer, such member shall be entitled to a rate of compensation based upon wages received as a member of such military forces, reserve force, department, agency, organization, team, or unit.

Sec. 10. Section 55-120, Reissue Revised Statutes of Nebraska, is amended to read:

55-120. The Military Department shall consist of the Adjutant General, in the grade of major general, ~~and~~ one deputy adjutant general, with a grade not less than colonel, one assistant adjutant general or chief of staff for Army National Guard affairs and one assistant adjutant general or chief of staff for Air National Guard affairs, each in the grade of brigadier general, ~~7~~ and one assistant director for civil defense affairs, Nebraska Emergency Management Agency affairs, and such other personnel as may be necessary to comply with such tables of organization as are ~~or may hereafter~~ be prescribed for this state by the laws or regulations of the United States.

Sec. 11. Section 60-6,164, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,164. (1) No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon a roadway outside of a business or residential district when it is practicable to stop, park, or leave such vehicle off such part of a highway, but in any event an unobstructed width of the roadway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of two hundred feet in each direction upon such highway. Such parking, stopping, or standing shall in no event exceed twenty-four hours.

(2) No person shall stop, park, or leave standing any vehicle on a freeway except in areas designated or unless so directed by a peace officer, except that when a vehicle is disabled or inoperable or the driver of the vehicle is ill or incapacitated, such vehicle shall be permitted to park, stop, or stand on the shoulder facing in the direction of travel with all wheels and projecting parts of such vehicle completely clear of the traveled lanes, but in no event shall such parking, standing, or stopping upon the shoulder of a freeway exceed twelve hours.

(3) No person, except law enforcement, fire department, civil defense emergency management, public or private ambulance, or authorized Department of Roads or local authority personnel, shall loiter or stand or park any vehicle upon any bridge, highway, or structure which is located above or below or crosses over or under the roadway of any highway or approach or exit road thereto.

(4) This section shall not apply to the driver of any vehicle which is disabled while on the roadway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

Sec. 12. Section 68-703, Reissue Revised Statutes of Nebraska, is amended to read:

68-703. The powers and duties of the Director of Social Services are as follows:

(1) To administer the Department of Social Services as provided by law;

(2) To determine the general principles and outline the operation of public assistance, child welfare, and related activities;

(3) To establish rules and regulations which are in conformance with section 68-129 for efficiently administering the department and performing the duties assigned to it;

(4) To organize the department;

(5) To appoint and fix the salaries of all necessary staff for performance of the duties of the department and in compliance with the rules and regulations of the merit system;

(6) To consult and cooperate with the Department of Public Institutions and the Department of Correctional Services so as to coordinate

in an effective manner the welfare activities of the department with those related activities affecting the welfare of persons in state institutions which are the responsibility of the Department of Public Institutions or the Department of Correctional Services;

(7) To consult and, under the general direction and guidance of the Adjutant General and the ~~state~~ Civil Defense Nebraska Emergency Management Agency, to coordinate programs to meet ~~disaster-related~~ necessary expenses or serious needs of individuals or families adversely affected by a ~~major disaster, emergency, or civil defense emergency~~ as such terms are defined in the Emergency Management Act;

(8) To take the official oath; and

(9) To make an annual report to the Governor and prepare a biennial budget for the department, and make such other studies and reports as may be deemed necessary.

The director shall be bonded under the blanket surety bond required by section 11-201.

Sec. 13. Section 71-5120, Revised Statutes Supplement, 1994, is amended to read:

71-5120. The provisions of sections 60-337 and 71-5101 to 71-5164 shall not be construed to supersede, limit, or otherwise affect the provisions of the state civil defense emergency management laws or of any interstate civil defense compact participated in by the State of Nebraska dealing with the licenses for professional, mechanical, or other skills for persons performing civil defense, emergency, or disaster emergency management functions.

Sec. 14. Section 71-7318, Revised Statutes Supplement, 1994, is amended to read:

71-7318. The First Responders Emergency Rescue Act shall not be construed to supersede, limit, or otherwise affect the provisions of state civil defense emergency management laws or any other interstate civil defense compact participated in by the State of Nebraska dealing with licenses for professional, mechanical, or other skills for persons performing civil defense, emergency, or disaster emergency management functions.

Sec. 15. Section 77-3439, Revised Statutes Supplement, 1995, is amended to read:

77-3439. (1) A governing body may increase the anticipated aggregate receipts from property taxes more than the amount permitted by section 77-3438 by the percentage change in the Consumer Price Index - All Urban Consumers, published by the United States Department of Labor, Bureau of Labor Statistics, for the previous calendar year, up to a maximum of four percent. The increase shall be approved upon the affirmative vote of a majority of the governing body. If such increase is less than four percent more than the amount permitted by section 77-3438, a governing body may increase the anticipated aggregate receipts from property taxes by an additional amount equal to the difference between the increase approved for the percentage change in the Consumer Price Index - All Urban Consumers and four percent more than the amount permitted by section 77-3438 upon an affirmative vote of at least seventy-five percent of the governing body. Such vote shall be taken at a public meeting of the governing body following a special public hearing called for the purpose of receiving testimony on such proposed increase.

(2) In addition to the increase permitted by subsection (1) of this section, (a) a community college board of governors may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for accessibility barrier elimination project costs and for abatement of environmental hazards as such terms are defined in section 79-4,207 and (b) the board of an educational service unit may increase the anticipated aggregate receipts from property taxes for purposes of section 79-2225. Such increase shall be upon an affirmative vote of a majority of the board taken at a public meeting of the board following (i) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (ii) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(3) In addition to the increase permitted by subsection (1) of this section, a public building commission created under sections 13-1301 to 13-1312, municipality, or county may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for accessibility barrier elimination project costs upon an affirmative vote of a majority of the governing body or of the board of commissioners. Such vote shall be taken at a public meeting of the governing body or board of commissioners following (a) a hearing called pursuant to subsection (1) of this section at which there

is an opportunity for testimony on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(4) In addition to the increase permitted by subsection (1) of this section, a public building commission created under sections 13-1301 to 13-1312, municipality, or county may increase the anticipated aggregate receipts from property taxes by the amount necessary to pay for repairs to infrastructure damaged by a natural disaster which is declared a disaster or emergency pursuant to the Nebraska Disaster and Civil Defense Act of 1973 Emergency Management Act and which is not reimbursed by state or federal emergency funds upon an affirmative vote of a majority of the governing body or of the board of commissioners. Such vote shall be taken at a public meeting of the governing body or board of commissioners following (a) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(5) In addition to the increase permitted by subsection (1) of this section, a municipality, county, or community college may increase the anticipated aggregate receipts from property taxes by the amount necessary to comply with a final order, judgment, ruling, or award of the Commission on Industrial Relations upon an affirmative vote of a majority of the governing body. Such vote shall be taken at a public meeting of the governing body following (a) a hearing called pursuant to subsection (1) of this section at which there is an opportunity for testimony on the increase proposed under this subsection or (b) a special public hearing called for the purpose of receiving testimony on the increase proposed under this subsection.

(6) The governing body, board of commissioners, board of governors, or board of an educational service unit shall give at least seven calendar days' notice of a public hearing called under this section and shall publish such notice at least once in a newspaper of general circulation in the political subdivision.

(7) Any governing body that chooses not to increase its anticipated aggregate receipts from property taxes to its authorized level for the fiscal year may carry forward unused authority. In such case, the governing body shall calculate the amount of unused anticipated aggregate receipts from property taxes which shall be carried forward to future fiscal years so a governing body may increase its anticipated aggregate receipts from property taxes in future fiscal years by the amount of such total unused anticipated aggregate receipts from property taxes in addition to the amount allowable for the specific fiscal year. The calculation of unused anticipated aggregate receipts shall be included in the budget documents submitted to the Auditor of Public Accounts.

Sec. 16. Section 81-829.31, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.31. There is hereby created in the office of the Adjutant General a civil defense agency the Nebraska Emergency Management Agency. The Adjutant General shall administer the provisions of sections 81-829.36 to 81-829.40, 81-829.46, 81-829.48, 81-829.49, 81-829.51 to 81-829.55, and 81-829.58 to 81-829.64 Emergency Management Act.

Sec. 17. Section 81-829.36, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.36. Sections 81-829.36 to 81-829.66 81-829.73 and section 49 of this act shall be known and may be cited as the Nebraska Disaster and Civil Defense Act of 1973 Emergency Management Act.

Sec. 18. Section 81-829.37, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.37. The purposes of sections 81-829.36 to 81-829.66 the Emergency Management Act and the policy of the state are to:

(1) Reduce the vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural, technological, or manmade disasters and emergencies, civil disturbances, or hostile military or paramilitary action;

(2) Prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disasters Provide an emergency management system embodying all aspects of preparedness, response, recovery, and mitigation;

(3) Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters;

(4) Clarify and strengthen the roles of the Governor, state agencies, and local governments in the mitigation of, prevention of, preparation for, and response to, and recovery from disasters, emergencies, or

civil defense emergencies;

(5) Authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;

(6) (4) Authorize and provide for cooperation and coordination of activities relating to disaster mitigation of, prevention of, preparedness for, response to, and recovery from disasters, emergencies, and civil defense emergencies by agencies and officers of this state, and its political subdivisions and similar state, local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate;

(7) Provide a disaster management system embodying all aspects of preparedness and response;

(8) (5) Assist in mitigation and prevention of disasters, emergencies, and civil defense emergencies caused or aggravated by inadequate planning for and regulation of public and private facilities and land use; and

(9) (6) Provide for the funding of activities incidental to carrying out the purposes of sections 81-829.36 to 81-829.66 the act.

Sec. 19. Section 81-829.38, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.38. Nothing in sections 81-829.36 to 81-829.66 the Emergency Management Act shall be construed to:

(1) Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by sections 81-829.36 to 81-829.66 the act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(2) Interfere with the dissemination of news or comment on public affairs, but any communications facility or organization, including, but not limited to, radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster, emergency, or civil defense emergency;

(3) Affect the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty, but state, local city, village, county, and interjurisdictional disaster emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster disasters, emergencies, or civil defense emergencies; or

(4) Limit, modify, or abridge the authority of the Governor to proclaim martial law or exercise any other powers vested in him or her under the Constitution, statutes, of Nebraska or the statutes or common law of this state independent of, or in conjunction with, any provisions of sections 81-829.36 to 81-829.66 the Emergency Management Act.

Sec. 20. Section 81-829.39, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.39. As used in sections 81-829.36 to 81-829.66 For purposes of the Emergency Management Act, unless the context otherwise requires:

(1) Civil defense shall mean the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to prevent, minimize, and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action, or by fire, flood, earthquake, or other natural causes. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, civilian war aid, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions.

(2) Civil defense emergency shall mean means an emergency declared by the President of the United States or Congress pursuant to applicable federal law finding that an attack upon the United States has occurred or is anticipated and that the national safety therefor requires the invocation of the emergency authority provided for by federal law. Such Civil defense emergency also shall exist in the event of means an enemy attack or other hostile action within the State of Nebraska, or when a determination by the President determines of the United States that any attack has been made upon or is anticipated within a designated geographic area which includes all or a part of the State of Nebraska. Any such emergency shall terminate in the manner provided by federal law, or by proclamation of the Governor, or by or resolution of the Legislature, terminating such emergency; -

(3) (2) Disaster shall mean occurrence or means any event or the



imminent threat of thereof causing widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or other water contamination requiring emergency action to avert danger or damage; volcanic activity; epidemic; air contamination; blight; drought; infestation; explosion; riot; civil disturbance; or hostile military or paramilitary action.

(4) Mobile support unit (3) Emergency means any event or the imminent threat thereof causing serious damage, injury, or loss of life or property resulting from any natural or manmade cause which, in the determination of the Governor or the principal executive officer of a local government, requires immediate action to accomplish the purposes of the Emergency Management Act and to effectively respond to the event or threat of the event.

(4) Emergency management means the preparation for and the carrying out of all emergency functions, other than functions for which military forces are primarily responsible, to mitigate, prevent, minimize, respond to, and recover from injury and damage resulting from disasters, emergencies, or civil defense emergencies. Emergency management functions include, but need not be limited to, firefighting services, police services, medical and health services, search and rescue services, engineering services, communications and warning systems, radiological preparedness, hazardous materials response, evacuation of persons from stricken areas, emergency welfare services, emergency transportation services, restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the functions listed in this subdivision.

(5) Emergency management worker includes any full-time or part-time paid, volunteer, or auxiliary employee of this state or other states, territories, or possessions of the federal government or any neighboring country or of any political subdivision thereof, of the District of Columbia, or of any agency or organization performing emergency management services at any place in this state subject to the order or control of or pursuant to a request of the state government or any political subdivision thereof and also includes instructors and students in emergency management educational programs approved by the Nebraska Emergency Management Agency or otherwise under the provisions of the Emergency Management Act.

(6) Hazard mitigation means measures which will eliminate or reduce the potential for damage to an area or facility from the effects of a future disaster, emergency, or civil defense emergency.

(7) Local government means a county, village, or city of any class.

(8) Political subdivision means a city, village, county, school district, public power district, natural resources district, and any other unit of government below the state level, including any entity created by local public agencies pursuant to the Interlocal Cooperation Act.

(9) Principal executive officer means the mayor in a city of any class or the elected chairperson of the governing body of a village or county.

(10) State emergency response team means shall mean an organization for civil defense emergency management established in accordance with the provisions of sections 81-829.52 to 81-829.54 by state or local authority to be dispatched by the Governor to supplement local city, village, county, or interjurisdictional emergency management organizations for civil defense in a stricken area; and

(11) Technological hazard means a hazard emanating from the manufacture, transportation, and use of such substances as radioactive materials, chemicals, explosives, flammables, agricultural pesticides, herbicides, disease agents, oil spills, and debris from space.

(5) Local government shall mean counties, villages, and cities of all classes.

(6) Civil defense worker shall include any full-time or part-time paid, volunteer, or auxiliary employee of this state or other states, territories, possessions, or the District of Columbia; of the federal government or any neighboring country; or of any political subdivision thereof; or of any agency or organization performing civil defense services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision thereof and shall also include instructors and students in recognized educational programs where civil defense services are taught. A recognized educational program shall include programs in educational institutions duly existing under the laws of this state and such other educational programs as shall be established by the state Civil Defense Agency or otherwise under the provisions of sections 81-829.36 to 81-829.66.

Sec. 21. Section 81-829.40, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.40. (1) The Governor shall be responsible for meeting the dangers to the state and people presented by disasters, emergencies, and civil defense emergencies, and in the event of disaster, emergency, or civil defense emergency beyond local control, he or she may assume direct operational control over all or any part of the civil defense emergency management functions within this state. He or she shall have general direction and control of the disaster response emergency management and the state Civil Defense Nebraska Emergency Management Agency and shall be responsible for carrying out the provisions of sections 81-829.36 to 81-829.66 the Emergency Management Act.

(2) In order to effect the policy and purposes of sections 81-829.36 to 81-829.66 the act, the Governor may issue proclamations and make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of sections 81-829.36 to 81-829.66 act.

(3) A disaster state of emergency shall be declared by proclamation of shall be issued by the Governor if he or she finds that a disaster, emergency, or civil defense emergency has occurred or that the occurrence or threat thereof is imminent. All proclamations issued under this subsection shall indicate the nature of the disaster, emergency, or civil defense emergency, the area or areas threatened, and the conditions which have brought about the state of emergency. All proclamations shall be disseminated promptly by means calculated to bring the contents to the attention of the general public and shall be promptly filed with the Nebraska Emergency Management Agency, the Secretary of State, and the clerks of the local governments in the area to which it applies. The state of disaster emergency proclamation shall continue in effect until the Governor finds that the threat or danger has passed or the disaster, emergency, or civil defense emergency has been dealt with to the extent that emergency those conditions no longer exist and terminates the state of disaster emergency by proclamation; but no state of disaster emergency may continue for longer than thirty days unless renewed by the Governor proclamation by letter of notice to such agency, the Secretary of State, and the clerks of the local governments in the area to which it applies. The Legislature by resolution may terminate a state of disaster emergency proclamation at any time, whereupon the Governor shall issue a proclamation ending terminate the state of disaster emergency proclamation by letter of notice to such agency, the Secretary of State, and the clerks of the local governments in the area to which it applies. All proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought it about or which make possible the termination of the state of disaster emergency. All proclamations shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless the circumstances attendant upon the disaster prevent or impede, shall be promptly filed with the state Civil Defense Agency, the Secretary of State, and the clerks of the local governments in the area to which it applies.

(4) Proclamation of a state of disaster emergency proclamation shall activate the disaster response and recovery aspects of the state, local city, village, county, and interjurisdictional disaster and civil defense emergency management organizations and emergency operations plans applicable to the political subdivision local government or area in question and shall be the authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials, and facilities assembled, stockpiled, or arranged to be made available pursuant to sections 81-829.36 to 81-829.68 the act or any other provision of law relating to disaster disasters, emergencies, or civil defense emergencies.

(5) During the continuance of any state of disaster emergency the Governor shall be commander in chief of the organized and unorganized militia and of all other forces available for emergency management duty. To the greatest extent practicable, the Governor shall delegate or assign command authority by prior arrangement embodied in appropriate proclamations, orders, rules, and regulations, but nothing shall restrict his or her authority to do so by orders issued at the time of the disaster, emergency, or civil defense emergency.

(6) In addition to any other powers conferred upon the Governor by law, he or she may:

(a) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay



necessary action in coping with the disaster, emergency, or civil defense emergency;

(b) Utilize all available resources of the state government and of each political subdivision of the state as are reasonably necessary to cope with the disaster, emergency, or civil defense emergency;

(c) Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating disaster response emergency management;

(d) Subject to any applicable requirements for compensation under section 81-829.57, commandeer or utilize any private property if he or she finds this necessary to cope with the disaster, emergency, or civil defense emergency;

(e) Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he or she deems this action necessary for the preservation of life or other disaster mitigation, response, or recovery emergency management;

(f) Prescribe routes, modes of transportation, and destinations in connection with evacuation;

(g) Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein in the area;

(h) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles; and

(i) Make provisions for the availability and use of temporary emergency housing.

(7) In the event of a civil defense emergency, as defined in section 81-829.39, the Governor shall assume direct operational control over all or any part of the civil defense emergency management functions within this state.

Sec. 22. Section 81-829.41, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.41. (1) The state Civil Defense Nebraska Emergency Management Agency shall be maintained in the office of the Adjutant General. The Adjutant General shall be the director of the agency, shall administer the provisions of sections 81-829.36 to 81-829.66, Emergency Management Act subject to the direction and control of the Governor, and shall receive such compensation for these services as shall be determined by the Governor. The agency shall have an assistant director and such other professional, technical, secretarial, and clerical employees as are necessary for the performance of its functions.

(2) The agency shall maintain a state disaster an emergency operations plan and keep it current. The plan which may include, but need not be limited to:

(a) A history of Nebraska disasters, emergencies, and civil defense emergencies;

(b) An analysis of past and potential disasters, emergencies, and civil defense emergencies, including an identification of the functions and resources required to cope with such disasters occurrences. The expected frequency of occurrence of disasters, along with the severity of their effect, shall indicate the priority of preparedness efforts of the disaster agencies emergency management organizations of the state;

(c) Measures to be undertaken to accomplish disaster damage assessment and situation analysis, warning, direction and control, coordination of operating forces, emergency resource management, emergency information and official instructions, communications and other necessary support to disaster emergency response operations, and coordination and cooperation of federal, state, local, and nongovernmental agencies so as to provide a prompt and effective response to disaster situations disasters, emergencies, and civil defense emergencies to prevent and minimize the injury and damage caused by disasters;

(d) The provision of disaster relief and recovery assistance to individuals, political subdivisions of the state, and state agencies;

(e) Identification of areas of the state particularly vulnerable to a disaster, emergency, or civil defense emergency;

(f) Recommendations for preventive and preparedness measures designed to eliminate or reduce disasters, emergencies, or civil defense emergencies or their impact, such as including, but not limited to, zoning, building, and other land-use control, and safety measures for securing mobile homes or other nonpermanent or semipermanent structures;

(g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster,

emergency, or civil defense emergency;

(h) Assistance to local officials in designing local disaster response city, village, county, and interjurisdictional emergency operations plans;

(i) Preparation and distribution to the appropriate state and local political subdivision officials of catalogs of federal, state, and private disaster assistance programs; and

(j) Other necessary matters.

(3) The agency Nebraska Emergency Management Agency shall take an integral part in the development and revision of local city, village, county, and interjurisdictional disaster and civil defense emergency operations plans prepared under section 81-829.46. To this end, it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster and civil defense agencies, and to city, village, county, and interjurisdictional disaster and civil defense agencies emergency management organizations. Such personnel shall consult with such political subdivisions and agencies organizations on a regularly scheduled basis and shall make field examinations of the areas, circumstances, and conditions to which particular local city, village, county, and interjurisdictional disaster and civil defense emergency operations plans are intended to apply, and may suggest or require revisions.

(4) In preparing and revising the state disaster Nebraska emergency operations plan and other civil defense plans, the agency shall seek the advice and assistance of other agencies of government and the private sector. In advising local city, village, county, and interjurisdictional agencies emergency management organizations, the agency Nebraska Emergency Management Agency shall encourage them to also seek advice from these sources.

(5) The state disaster and other civil defense Nebraska emergency operations plans or any part thereof may be incorporated in rules or regulations of the agency.

(6) The state Civil Defense Agency shall:

(a) Determine the requirements of the state and its political subdivisions for basic necessities such as food, clothing, and shelter in various disaster, emergency, or civil defense emergency situations;

(b) Procure and pre-position emergency supplies, medicines, materials, and equipment;

(c) Promulgate Adopt and promulgate rules and regulations setting out standards and requirements for local city, village, county, and interjurisdictional disaster and civil defense emergency operations plans;

(d) Periodically review local city, village, county, and interjurisdictional disaster and civil defense emergency operations plans;

(e) Provide for mobile support units state emergency response teams;

(f) Establish and operate or assist political subdivisions local governments, their disaster and civil defense agencies emergency management organizations, and interjurisdictional disaster and civil defense agencies to establish and operate emergency management organizations in establishing and operating training programs and programs of public information;

(g) Make surveys of such industries, resources, and facilities, both public and private, within the state, both public and private, as are necessary to carry out the purposes of sections 81-829.36 to 81-829.66 the Emergency Management Act;

(h) Plan and make arrangements for the availability and use of any private facilities, services, and property and, if necessary and if in fact used, provide for payment for use under terms and conditions agreed upon;

(i) Establish a register of persons with types of training and skills important in disaster prevention, mitigation, preparedness, response, and recovery and emergency management;

(j) Establish a register of mobile and construction equipment and temporary housing available for use in a disaster or emergency;

(k) Prepare, for issuance by the Governor, proclamations, orders, rules, and regulations as are necessary or appropriate in coping with disasters, emergencies, and civil defense emergencies;

(l) Cooperate with the federal government and any public or private agency or entity in achieving any purpose of sections 81-829.36 to 81-829.66 the act and in implementing programs for disaster prevention, preparation mitigation, preparedness, response, and recovery and emergency management; and

(m) Coordinate state emergency response as directed by the Governor.

(n) Do other things necessary, incidental, or appropriate for the implementation of sections 81-829.36 to 81-829.66 the act.

Sec. 23. Section 81-829.42, Revised Statutes Supplement, 1995, is amended to read:

81-829.42. (1) While The Legislature recognizes that, while appropriations are adequate to meet the normal needs, the legislature recognizes the necessity exists for anticipating and making advance provision to care for the unusual and extraordinary burdens imposed on the state and its political subdivisions by disasters, emergencies, or a civil defense emergency as defined in section 81-829.39 emergencies. To meet such situations, it is the intention of the Legislature to confer emergency powers on the Governor, acting through the Adjutant General and the state Civil Defense Nebraska Emergency Management Agency, and to vest him or her with adequate power and authority within the limitation of available funds in the Governor's Emergency Fund to meet any such emergency or disaster, emergency, or civil defense emergency.

(2) There is hereby established a fund to be known as the Governor's Emergency Fund. It The fund shall be expended, upon direction of the Governor, for any state of emergency. The state of emergency declaration proclamation shall set forth the emergency and shall state that it requires the expenditure of public funds to furnish immediate aid and relief. The Adjutant General shall administer such the 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.

(3) It is the legislative intent of the Legislature that the first recourse shall be to funds regularly appropriated to state and local agencies. If the Governor finds that the demands placed upon these funds are unreasonably great, he or she may make funds available from the Governor's Emergency Fund. Expenditures may be made upon the direction of the Governor for any or all of the civil defense emergency management functions as defined in section 81-829.39 or to meet the intent of the state disaster emergency operations plans as outlined in section 81-829.41. Expenditures may also be made to state and federal agencies to meet the matching requirement of any applicable assistance programs.

(4) Assistance shall be provided from the Governor's Emergency Fund to political subdivisions of this state which have suffered from a disaster, emergency, or civil defense emergency to such an extent as to impose a severe financial burden exceeding the ordinary capacity of the subdivision affected. Applications for aid under this section shall be made to the state Civil Defense Nebraska Emergency Management Agency on such forms as shall be prescribed and furnished by the agency. The forms and which shall require the furnishing of sufficient information to determine eligibility for aid and the extent of the financial burden incurred. The agency may call upon other agencies of the state in evaluating such applications. The Adjutant General shall review each application for aid under this section and recommend its approval or disapproval, in whole or in part, to the Governor. If the Governor approves, he or she shall determine and certify to the Adjutant General the amount of aid to be furnished. The Adjutant General shall thereupon issue his or her voucher to the Director of Administrative Services who shall issue his or her warrants therefor to the applicant.

(5) When a disaster state of emergency has been proclaimed by the Governor, or in the event of a civil defense emergency, the Adjutant General, upon order of the Governor, shall have authority to expend funds to meet but not be limited to the following situations for purposes including, but not limited to:

(a) The purposes of the Nebraska Disaster and Civil Defense Act of 1973, to include civil defense Emergency Management Act, including emergency management functions as defined in section 81-829.39 and the responsibilities of the Governor and the state Civil Defense Agency as outlined in sections 81-829.40 and 81-829.41 the act;

(b) Employing for the duration of the state of emergency additional personnel and contracting or otherwise procuring all necessary appliances, supplies, and equipment;

(c) Performing services for and furnishing materials and supplies to state government agencies, counties, and municipalities and local governments with respect to performance of any duties enjoined by law upon such agencies, counties, and municipalities and local governments which they are unable to perform because of extreme climatic phenomena and receiving reimbursement in whole or in part from such agencies, counties, and municipalities and local governments able to pay therefor under such terms and conditions as may be agreed upon by the Adjutant General and any such agency, county, or municipality or local government;

(d) Performing services for and furnishing materials to any individual in connection with alleviating hardship and distress growing out of extreme climatic phenomena and receiving reimbursement in whole or in part

from such individual under such terms as may be agreed upon by the Adjutant General and such individual;

(e) ~~Performing services to counties and municipalities with respect to quelling riots and civil disturbances;~~

~~(f) Opening up, repairing, and restoring roads and highways;~~

~~(g) (f) Repairing and restoring bridges;~~

~~(h) (g) Furnishing transportation for supplies to alleviate suffering and distress;~~

~~(i) (h) Restoring means of communication;~~

~~(j) (i) Furnishing medical services and supplies to prevent the spread of disease and epidemics;~~

~~(k) (j) Quelling riots and civil disturbances;~~

~~(l) (k) Training of individuals or governmental agencies for the purpose of perfecting the performance of emergency assistance management duties as defined provided in the state disaster Nebraska emergency operations plans;~~

~~(m) (l) Procurement and storage of special emergency supplies or equipment, determined by the Adjutant General as to be required to provide rapid response by state government to assist counties and municipalities local governments in impending or actual disasters, emergencies, or civil defense emergencies;~~

~~(n) (m) Clearing or removing, from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety from publicly owned or privately owned land or water; and~~

~~(o) (n) Such other measures as are customarily necessary to furnish adequate relief in cases of catastrophe or disaster, emergency, or civil defense emergency.~~

~~(6) If aerial fire suppression is immediately required, the Adjutant General may make expenditures of up to ten thousand dollars per event without a state of emergency proclamation issued by the Governor.~~

~~(7) The Governor may receive such voluntary contributions as may be made from any source to aid in carrying out the purposes of this section and shall credit the same to the Governor's Emergency Fund.~~

~~(7) (8) All obligations and expenses incurred by the Governor in the exercise of the powers and duties vested in the Governor by this section shall be paid by the State Treasurer out of available funds in the Governor's Emergency Fund, and the Director of Administrative Services shall draw his or her warrants upon the State Treasurer for the payment of such sum, or so much thereof as may be required, upon receipt by him or her of proper vouchers duly approved by the Adjutant General.~~

~~(8) (9) This section shall be liberally construed in order to accomplish the purposes of the Nebraska Disaster and Civil Defense Act of 1973 Emergency Management Act and to permit the Governor to adequately cope with any disaster, emergency, or civil defense emergency which may arise, and the powers vested in the Governor by this section shall be construed as being in addition to all other powers presently vested in him or her and not in derogation of any existing powers.~~

~~(9) (10) Such funds as may be made available by the government of the United States for the purpose of alleviating distress from disasters, emergencies, and civil defense emergencies may be accepted by the State Treasurer and shall be credited to the Governor's Emergency Fund fund unless otherwise specifically provided in the act of Congress making such funds available.~~

Sec. 24. Section 81-829.43, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) The appropriate state agencies, in conjunction with the state



Civil Defense Nebraska Emergency Management Agency, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of ~~reducing mitigating or avoiding the dangers caused by any such occurrence or the consequences thereof.~~

(3) If the ~~state Civil Defense Agency~~ agency believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster, ~~emergency, or civil defense emergency~~ of catastrophic proportions without adequate warning, that existing building standards and land-use controls in that area are inadequate and could add substantially to the magnitude ~~thereof, of the disaster,~~ and that changes in zoning regulations, other land-use regulations, or building requirements are essential in order to further the purposes of this section, it shall specify the essential changes to the Governor. If the Governor upon review of the recommendation finds after public hearing that the changes are essential, he or she shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter. If no action or insufficient action pursuant to his or her recommendations is taken within the time specified by the Governor, he or she shall so inform the Legislature and request appropriate legislative action appropriate to mitigate the impact of a disaster, ~~emergency, or civil defense emergency.~~

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

Sec. 25. Section 81-829.45, Reissue Revised Statutes of Nebraska, as amended by section 2, Legislative Bill 966, Ninety-fourth Legislature, Second Session, 1996, is amended to read:

81-829.45. The ~~state Civil Defense Nebraska Emergency Management Agency~~ shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster ~~or emergency.~~

Sec. 26. Section 81-829.46, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.46. (1) The elected officers of local governments shall be responsible for ensuring that emergency management services are provided to their citizens and for coordinating emergency operations in their respective jurisdictions.

(2) Each local government shall be within the jurisdiction of and served by the Nebraska Emergency Management Agency and shall participate in a city, village, county, or interjurisdictional emergency management organization. Each county or interjurisdictional emergency management organization shall cooperate with and perform emergency management functions for the local governments located within the organization's boundaries but shall not have responsibility for emergency management services within a city or village having its own emergency management organization. Each city or village may maintain a city or village emergency management organization which, if formed, shall be the primary organization for emergency management serving that city or village. Any county or interjurisdictional emergency management organization may assist in emergency management functions for that city or village if approved by the city or village emergency management organization. Each county may maintain a county emergency management organization which shall be the primary organization for emergency management for that county. Any city, village, or interjurisdictional emergency management organization may assist in emergency management functions for that county if approved by the county emergency management organization.

(3) Each city, village, county, or interjurisdictional emergency management organization, if formed, shall have either (a) a full-time director or (b) a full-time deputy director and such additional personnel as may be needed, appointed in accordance with the agreement establishing the organization. Such director shall have direct responsibility for the organization, administration, and operation of such emergency management organization subject to the direction and control of the principal executive

officer for the local government or in accordance with such agreement. A person may serve as a director for more than one emergency management organization serving an area. Each political subdivision within this state shall be within the jurisdiction of and served by the state Civil Defense Agency and by a local or interjurisdictional civil defense organization which is headed by a director or coordinator who shall devote full time to his or her duties or is served by a part-time director or coordinator who has a full-time assistant or deputy who is qualified as set forth in subsection (5) of this section.

(2) Each county shall maintain a civil defense agency or participate in a local or interjurisdictional civil defense agency which, except as otherwise provided under the Nebraska Disaster and Civil Defense Act of 1973, has jurisdiction over and serves the entire county. Each city and village which is desirous of establishing a civil defense organization may do so in accordance with the state civil defense plan and program. Each such local or interjurisdictional civil defense organization shall have a director who shall be appointed by the governing body or bodies of such government or governments and who shall have direct responsibility for the organization, administration, and operation of such local organization for civil defense subject to the direction and control of the governing body or bodies of the political subdivision or subdivisions concerned. The director of any county civil defense organization may also be appointed director for any city or village within such county, and the director of any city or village civil defense organization may also be appointed county director. Each local or interjurisdictional organization for civil defense shall perform civil defense functions within the territorial limits of the political subdivision or subdivisions within which it is organized, except that the interjurisdictional and county organizations for civil defense shall perform no civil defense functions within the limits of a county or city which are already being performed by such county or city civil defense organizations unless the approval of the respective county or city civil defense director is first obtained.

(4) (3) The Governor may determine that some cities need civil defense emergency management organizations or agencies of their own. The Governor shall, after making such determination, require that such civil defense emergency management organizations be established and maintained by issuing a directive in the form of a rule or regulation. The Governor shall make the determination on the basis of a city's disaster vulnerability and capability of response related to population size and concentration. The civil defense agency of a county shall cooperate with the civil defense agencies of cities within the county but shall not have jurisdiction within a city having its own civil defense agency. The state Civil Defense Nebraska Emergency Management Agency shall publish and keep current a list of cities required to have civil defense agencies an emergency management organization.

(4) (5) Any provision of the act Emergency Management Act or other law to the contrary notwithstanding, the Governor may require a local government to establish and maintain a civil defense agency and an emergency management organization jointly with one or more contiguous local governments if he or she finds that the establishment and maintenance of or participation in such an agency or participation therein organization is made necessary by circumstances or conditions that make it unusually difficult to provide disaster prevention, preparedness, response, or recovery services or emergency management functions under other provisions of the act. Such interjurisdictional agencies organizations shall be organized generally in accord with the Interlocal Cooperation Act and the planning and development regions created in section 13-1901.

(5) Local (6) City, village, county, or interjurisdictional civil defense emergency management directors or coordinators, or their assistants or deputies, who are required by the Nebraska Disaster and Civil Defense Act of 1973 Emergency Management Act or rules and regulations of the Governor to devote full time to their duties, shall be qualified and certified in accord with criteria established for the state by the Governor and announced by the Governor in a rule or regulation Nebraska Emergency Management Agency. Such directors or coordinators shall be paid for their services in an amount comparable to other officers of local governments. A minimum annual salary for such local or interjurisdictional civil defense director or coordinator shall be based on the combined population of the jurisdictions served as follows: Having a population of less than three thousand, five thousand five hundred dollars; having a population of three thousand but less than nine thousand, six thousand dollars; having a population of nine thousand but less than sixteen thousand, six thousand five hundred dollars; having a population of sixteen thousand but less than twenty thousand, seven thousand five hundred

dollars; having a population of twenty thousand but less than sixty thousand; eight thousand dollars; and having a population of sixty thousand or more; comparable to other officers of local governments as determined by the governing body or bodies.

(7) Each local government (6) Each political subdivision, except those directly managing a local or interjurisdictional civil defense agency, shall have a liaison officer designated to facilitate the cooperation with emergency management organizations and to ensure protection of that subdivision in the work of disaster prevention, preparedness, response, and recovery. Emergency management services are provided to the citizens of that local government. The liaison officers of local governments and the directors of the emergency management organizations shall communicate frequently to facilitate joint emergency preparedness efforts. For local governments which maintain an emergency management organization, the director or coordinator may serve as the liaison officer.

(7) (8) The principal executive officer of each political subdivision local government of the state shall notify the state Civil Defense Nebraska Emergency Management Agency of the manner in which the subdivision local government is providing or securing civil defense and disaster emergency management services, identify the person who heads the agency entity from which the service is obtained, and furnish such additional information relating thereto as the state agency requires.

(8) (9) Each local and city, village, county, or interjurisdictional civil defense agency emergency management organization shall prepare and keep current a local city, village, county, or interjurisdictional disaster and civil defense emergency operations plan for its jurisdiction. Such plans shall be in conformance with the requirements established in section 81-829.44 the act.

(9) (10) Each local city, village, county, or interjurisdictional civil defense agency emergency management organization shall prepare, keep current, and distribute to all appropriate officials in written form a clear and complete statement of the disaster and emergency management responsibilities of all local agencies entities and officials and of the disaster emergency response chain of command.

Sec. 27. Section 81-829.47, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.47. (1) If the Governor finds that two or more adjoining counties would be better served by an interjurisdictional emergency management arrangement than by maintaining separate disaster and civil defense agencies emergency management organizations and services, he or she may delineate by order or regulation an interjurisdictional area adequate to plan for, prevent, or respond to a disaster, emergency, or civil defense emergency in that area and direct such steps to be taken as are necessary, including the creation of an interjurisdictional emergency management relationship, a joint disaster emergency operations plan, mutual aid, or an area interjurisdictional emergency management organization, for disaster planning and services. A finding of the Governor pursuant to this subsection shall be based on one or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, mitigation, preparedness, response, and recovery and emergency management system without such interjurisdictional arrangement, such as:

- (a) Small or sparse population;
- (b) Limitations on public financial resources severe enough to make maintenance of a separate disaster agency emergency management organizations and services unreasonably burdensome;
- (c) Unusual vulnerability to disaster, emergency, or civil defense emergency as evidenced by a past history, of disasters, topographical features, drainage characteristics, disaster potential for disaster, emergency, or civil defense emergency, and presence of disaster-prone facilities or operations prone to disaster, emergency, or civil defense emergency;
- (d) The interrelated character of the counties in a multicounty area; or
- (e) Other relevant conditions or circumstances.

(2) If the Governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states and that it would be desirable to establish an interstate relationship, mutual aid, or an area interstate emergency management organization, for disaster; he or she shall take steps to that end as desirable. If this action is taken with jurisdictions that have enacted the Interstate Civil Defense and Disaster Compact, any resulting agreement or agreements may be considered supplemental agreements pursuant to Article VI § of that compact.



(3) If the other ~~jurisdiction or jurisdictions~~ with which the Governor proposes to cooperate pursuant to subsection (2) of this section have not enacted ~~that the compact, he or she~~ may negotiate special agreements with the ~~jurisdiction or jurisdictions~~. Any agreement, if sufficient authority for the making thereof does not otherwise exist, shall become effective only after its text has been communicated to the Legislature and if the Legislature has not disapproved it prior to adjournment of the next session competent to consider it, or within thirty days of its submission, whichever is later.

Sec. 28. Section 81-829.48, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.48. (1) The director or coordinator of each ~~local city, village, county, or interjurisdictional emergency management organization for civil defense~~ shall, in collaboration with other public and private ~~agencies entities~~ within this state, develop or cause to be developed mutual aid arrangements for reciprocal ~~civil defense emergency management aid and assistance in case of disaster, emergency, or civil defense emergency~~ too great to be dealt with unassisted. Such arrangements shall be consistent with the state ~~civil defense plan and program emergency operations plan~~, and in time of emergency it shall be the duty of each ~~local city, village, county, or interjurisdictional emergency management organization for civil defense~~ to render assistance in accordance with the provisions of such mutual aid arrangements.

(2) The director or coordinator of each ~~local city, village, county, or interjurisdictional emergency management organization for civil defense~~ may, subject to the approval of the Governor, enter into mutual aid arrangements with ~~civil defense emergency management agencies or organizations~~ in other states for reciprocal ~~civil defense emergency management aid and assistance in case of disaster, emergency, or civil defense emergency~~ too great to be dealt with unassisted.

(3) ~~In passing upon local disaster plans, the Governor shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.~~

(4) It shall be a sufficient reason for the Governor to require an interjurisdictional ~~emergency management agreement or arrangement, pursuant to section 81-829.47, that if the area and local governments involved and political subdivisions therein have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the political subdivisions local governments have not already made adequate provision for mutual aid, but in requiring the making of an interjurisdictional emergency management arrangement to accomplish the purpose purposes of this section, the Governor need not require establishment and maintenance of an interjurisdictional agency emergency management organization or arrangement for any other disaster, emergency, or civil defense emergency purposes.~~

Sec. 29. Section 81-829.49, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.49. Each ~~political subdivision local government~~ shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such ~~political subdivision local government~~ for the payment of expenses of its ~~local city, village, county, or interjurisdictional emergency management organization for civil defense and in furthering the purposes of sections 81-829.46 to 81-829.66 the Emergency Management Act.~~

Sec. 30. Section 81-829.50, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.50. (1) A local ~~disaster~~ emergency may be declared only by the principal executive officer of a ~~political subdivision~~. It shall not be continued or renewed for a period in excess of seven days except by or with the consent of the governing board of the ~~political subdivision local government who finds that conditions defined as a disaster or an emergency exist or by a person who by resolution has been authorized and designated by the governing board of a local government to determine that an emergency within the scope of his or her authorization exists. A copy of the resolution shall be filed with the Nebraska Emergency Management Agency to be effective. The proclamation shall continue in effect until the principal executive officer finds that the disaster or emergency has been dealt with to the extent that those conditions no longer exist. The local governing body by resolution may terminate a local state of emergency proclamation at any time, and upon such termination the principal executive officer shall terminate the proclamation. Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the clerk of the local government and the state Civil Defense Nebraska Emergency Management Agency.~~

(2) The effect of a declaration of a local disaster emergency shall be to activate the response and recovery aspects of any and all applicable local city, village, county, or interjurisdictional disaster or civil defense emergency operations plans and to authorize the furnishing of aid and assistance thereunder under such plans.

(3) No interjurisdictional agency emergency management organization or official thereof may declare a local disaster emergency unless expressly authorized by the agreement pursuant to which the agency organization functions, but an interjurisdictional disaster or civil defense agency or emergency management organization shall provide aid and services in accordance with the agreement and disaster or civil defense emergency operations plan pursuant to which it functions.

Sec. 31. Section 81-829.51, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.51. In the event of a disaster, emergency, or civil defense emergency, as defined in section 81-829.39, each local government may make emergency expenditures, enter into contracts, and incur obligations for civil defense emergency management purposes regardless of existing statutory limitations and requirements pertaining to appropriation, budgeting, levies, or the manner of entering into contracts. If ~~7~~ PROVIDED, that in the event that any such expenditure, contract, or obligation will be in excess of or in violation of existing statutory limitations or requirements, then before any such expenditure, contract, or obligation is undertaken it shall be approved by a vote of the governing body of such county, city, or village, as the case may be; PROVIDED FURTHER, that such local government, and such governing body may not vote its approval unless and until they shall have it has secured the certificate of the local city, village, county, or interjurisdictional civil defense emergency management director serving his such local government that such action is necessary in the public interest for civil defense emergency management purposes.

Sec. 32. Section 81-829.52, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.52. The Upon orders of the Governor, or his duly designated representative the Adjutant General is authorized to establish such number of mobile support units state emergency response teams as may be necessary to reinforce disaster and civil defense emergency management organizations in stricken areas and with due consideration of the plans of the federal government and of other states. He The Adjutant General shall appoint a commander team leader for each such unit team who shall have primary responsibility for the organization, administration, and operation of such Battalion team. The commander team leader shall keep and maintain a roster of members of said mobile support units the team, and only such persons whose names appear on said the roster shall be deemed members of such mobile support units team and entitled to the benefits provided by section 81-829.53. No ~~7~~ and no political subdivision shall be entitled to reimbursement as provided in section 81-829.54 unless the individual on whose behalf reimbursement is sought was duly enrolled on the roster as provided herein in this section at the time the obligation was incurred. Mobile support units shall be called to duty upon orders of the Governor and State emergency response teams shall perform their functions in any part of the state, or, upon the conditions specified in mutual aid plans and emergency management agreements, in accordance with the Interstate Civil Defense and Disaster Compact, and in this section, in other states.

Sec. 33. Section 81-829.53, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.53. Personnel of mobile support units state emergency response teams while on duty, whether within or without the state, shall: (1) If they are employees of the state, have the powers, duties, rights, privileges, and immunities, and receive the compensation incidental to their employment; (2) if they are employees of a political subdivision of the state, and whether serving within or without such political subdivision, have the powers, duties, rights, privileges, and immunities, and receive the compensation incidental to their employment; and (3) if they are not employees of the state or a political subdivision thereof, be entitled to compensation by the state at rates to be established by the Governor, and shall be entitled to the same rights and immunities as are provided by law for the employees of this state. All personnel of mobile support units State emergency response teams shall, while on duty, be subject to the operational control of the authority in charge of disaster and civil defense emergency management activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses in accordance with sections 81-1174 to 81-1177, for state employees.

Sec. 34. Section 81-829.54, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.54. (1) The state shall reimburse a political subdivision for (a) the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of employees of such political subdivision while serving as members of a mobile support unit state emergency response team as provided in sections 81-1174 to 81-1177, for state employees, (b) all payments for death, disability, or injury of such employees incurred in the course of such duty, as provided in the Nebraska Workers' Compensation Act, and (c) all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such mobile support unit state emergency response team.

(2) The state shall pay a fee for rental of privately owned equipment used in the operation of a mobile support unit, state emergency response team and shall also pay for any loss or damage to privately owned equipment used in mobile support emergency response. The fee for rental of said such privately owned equipment shall be fixed, and any loss or damage to said such equipment shall be assessed by a board consisting of three persons to be appointed by the Governor, one of whom shall be the State Purchasing Officer materiel administrator of the materiel division of the Department of Administrative Services.

Sec. 35. Section 81-829.55, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.55. (1) All functions provided for in sections 81-829.36 to 81-829.66 the Emergency Management Act and all other activities relating to civil defense emergency management are hereby declared to be governmental functions. Neither the The United States, the state, nor any political subdivision thereof, any nor other agencies of the United States, the state, or a political subdivision thereof, nor and, except in cases of willful misconduct, gross negligence, or bad faith, any civil defense emergency management worker complying with or reasonably attempting to comply with the provisions of sections 81-829.36 to 81-829.66 or Public Law 93-288, the act, any emergency management act of Congress, or any order, rule, or regulation promulgated pursuant to the provisions of sections 81-829.36 to 81-829.66 act or Public Law 93-288, any emergency management act of Congress or acting pursuant to any ordinance relating to black-out or other precautionary measures enacted by any political subdivision of the state shall not be liable for the death of or injury to persons, or for damage to property, as a result of any such activity. The provisions of this This section shall not affect the right of any person to receive benefits to which he or she would otherwise be entitled under the provisions of sections 81-829.36 to 81-829.66, or Emergency Management Act, under the Nebraska Workers' Compensation Act, or under any pension law, nor or the right of any person to receive any benefits or compensation under any act of Congress.

(2) Any requirement for a license to practice any professional, mechanical, or other skill shall not apply to any authorized civil defense emergency management worker who shall, in the course of performing his duties as such, practice practices such professional, mechanical, or other skill during a civil defense emergency or declared disaster state of emergency.

(3) Any civil defense worker, as defined in sections 81-829.36 to 81-829.66, performing civil defense emergency management worker performing emergency management services at any place in this state pursuant to agreements, compacts, or arrangements for mutual aid and assistance, to which the state or a political subdivision thereof is a party, shall possess the same powers, duties, immunities, and privileges he or she would ordinarily possess if performing his such duties in the state, province, or political subdivision thereof in which normally employed or rendering services.

Sec. 36. Section 81-829.56, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.56. (1) This state hereby enacts into law and enters into the Interstate Civil Defense and Disaster Compact with all states bordering this state which have enacted or shall hereafter enact the compact in the form substantially as adopted in this state.

(2) The Governor may enter into the compact with any state which does not border this state if he or she finds that joint action with the state is desirable in meeting common intergovernmental problems of emergency disaster planning, prevention, response, and recovery.

(3) Nothing in subsections (1) and (2) of this section shall be construed to limit previous or future entry into the Interstate Civil Defense and Disaster Compact of this state with other states.

(4) If any person holds a license, certificate, or other permit issued by any state or political subdivision thereof evidencing the meeting of

qualifications for professional, mechanical, or other skills, the person may render aid involving that skill in this state to meet an emergency or disaster, and this state shall give due recognition to the license, certificate, or other permit.

(5) In addition to the Interstate Civil Defense and Disaster Compact, the Governor may enter into and execute on behalf of the State of Nebraska mutual aid agreements or emergency preparedness compacts with other states. Any such agreement or compact shall provide for reimbursement of all costs incurred by the State of Nebraska for actions taken in another state, for indemnification of the State of Nebraska and its employees against all claims, costs, or fees arising from actions taken in another state, and for termination of the agreement or assistance as necessary to meet disasters, emergencies, or other needs of the State of Nebraska. Any mutual aid agreement or emergency preparedness compact other than the Interstate Civil Defense and Disaster Compact which does not meet the requirements specified in this subsection shall be submitted to the Legislature for approval before it can become effective.

Sec. 37. Section 81-829.57, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.57. (1) Each person within this state shall conduct himself or herself and keep and manage his or her affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet disaster disasters, emergencies, or civil defense emergencies. This obligation includes shall include appropriate personal service and use or restriction on the use of property in time of disaster, emergency, or civil defense emergency. Sections 81-829.36 to 81-829.66 neither increases nor decreases The Emergency Management Act shall not be construed to increase or decrease these obligations, but the act recognizes their existence under the Constitution of Nebraska and statutes of this state and the common law. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized in this subsection are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his or her services or property without compensation.

(2) No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law, resolution, or ordinance.

(3) Compensation for property shall be made only if the property was commandeered or otherwise used in coping with a disaster, emergency, or civil defense emergency and its use or destruction was ordered by the Governor or a member of the disaster emergency management forces of this state to whom the Governor has duly delegated such authority.

(4) Any person claiming compensation for the use, damage, loss, or destruction of property under sections 81-829.36 to 81-829.66 the act shall file a claim therefor with the state Civil Defense Nebraska Emergency Management Agency in the form and manner the agency provides.

(5) Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed upon between the claimant and the state Civil Defense Agency agency, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

(6) Nothing in this section shall apply to or authorize compensation for the destruction or damaging of standing timber or other property in order to provide a fire break or to the release of waters or the breach of impoundments in order to reduce pressure or other danger from actual or threatened flood.

Sec. 38. Section 81-829.58, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.58. Whenever the federal government or any agency or officer thereof shall offer offers to the state, or, through the state, to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of disaster response and civil defense emergency management, the state, acting through the Governor, or such political subdivision, acting with the consent of the Governor and through its principal executive officer or governing body, may accept such offer. Upon and upon such acceptance the Governor of the state or principal executive officer or governing body of such political subdivision may authorize any officer of the state or such political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer. All such funds received on behalf of the state shall be deposited in

the state treasury and by remitted to the State Treasurer credited for credit to the Military Department Cash Governor's Emergency Fund.

Sec. 39. Section 81-829.59, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.59. Whenever any person, firm, or corporation shall offer offers to the state or to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of disaster response and civil defense emergency management, the state, acting through the Governor, or such political subdivision, acting through its principal executive officer or governing body, may accept such offer. Upon and upon such acceptance the Governor of the state or principal executive officer or governing body of such political subdivision may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer. All such funds received on behalf of the state shall be deposited in the state treasury and by remitted to the State Treasurer credited for credit to the Military Department Cash Governor's Emergency Fund.

Sec. 40. Section 81-829.60, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.60. In carrying out the provisions of sections 81-829.36 to 81-829.66 Emergency Management Act, the Governor and the principal executive officers or governing bodies of the political subdivisions of the state are directed to shall utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the its political subdivisions thereof to the maximum extent practicable. The and the officers and personnel of all such departments, offices, and agencies are directed to shall cooperate with and extend such services and facilities to the Governor and to the disaster response and civil defense emergency management organizations of the state upon request.

Sec. 41. Section 81-829.61, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.61. No emergency management organization for disaster response and civil defense established under the authority of sections 81-829.36 to 81-829.66 Emergency Management Act shall participate in any form of political activity; nor shall it be employed directly or indirectly for political purposes.

Sec. 42. Section 81-829.62, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.62. No person shall be employed or associated in any capacity in any disaster response and civil defense emergency management organization established under the provisions of sections 81-829.36 to 81-829.66 Emergency Management Act who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in an organization for disaster response and civil defense shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this state; PROVIDED, that the Adjutant General and any subordinate civil defense officer within this state, designated by the Adjutant General in writing, shall be qualified to administer any such oath within this state under such regulations as the Adjutant General shall prescribe. The oath shall be substantially as follows:

I ..... do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Nebraska, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence; and that during such time as I am a member of the (name of civil defense organization); I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this state by force or violence. So help me God:

Sec. 43. Section 81-829.64, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.64. It shall be the duty of every Every emergency management organization for disaster response and civil defense established pursuant to

the provisions of sections 81-829.36 to 81-829.66 and of Emergency Management Act and the officers thereof to shall execute and enforce such orders, rules, and regulations as may be made by the Governor under authority of sections 81-829.36 to 81-829.66 the act. Each such organization shall have available for inspection at its office all orders, rules, and regulations made by the Governor, or under his or her authority.

Sec. 44. Section 81-829.65, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.65. The governing body of each political subdivision local government of this state shall take the necessary action to permit the movement of its emergency equipment and personnel, utility equipment and personnel, or such equipment and personnel as defined in the state, local city, village, county, or interjurisdictional disaster or civil defense emergency operations plans, outside the limits of such political subdivision local government in order to render aid in the event of major disaster, emergency, or civil defense emergency or in connection with any program of practice or training for such disaster, emergency, or civil defense emergency when such program is conducted or participated in by the state Civil Defense Nebraska Emergency Management Agency or with any other related training program. Such movement may be to any point in this state or may be into any adjoining state when mutual aid arrangements have been entered into on behalf of this state with such other state as authorized by section 81-829.56. Each political subdivision local government shall self-insure or contract for insurance against any liability for personal injuries or property damage that may be incurred by it or by its personnel as the result of any movement made pursuant to this section. As used in this section, political subdivision shall not include a district as defined in section 78-681.

Sec. 45. Section 81-829.69, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.69. Whenever the Governor has proclaimed a disaster state of emergency pursuant to section 81-829.40, the Governor shall be authorized:

(1) To enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster, emergency, or civil defense emergency victims and to make such units available to any political subdivisions local government of the state;

(2) To assist any political subdivision local government of the state which is the location of temporary housing for disaster victims to acquire sites necessary for such temporary housing and to do all things required to prepare such sites to receive and utilize temporary housing units; and

(3) Under such regulations as he or she shall prescribe, to temporarily suspend or modify for not to exceed sixty days any public health, safety, zoning, transportation, or other requirement of law or regulation within this state when by proclamation he or she deems such suspension or modification essential to provide temporary housing for disaster victims.

Sec. 46. Section 81-829.70, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.70. Any political subdivision local government of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster, emergency, or civil defense emergency victims, and to enter into whatever arrangements are necessary to prepare or equip such sites to utilize the housing units.

Sec. 47. Section 81-829.72, Reissue Revised Statutes of Nebraska, is amended to read:

81-829.72. (1) Whenever a major disaster a state of emergency has been declared to exist in this state, the Governor is authorized, upon his or her determination that financial assistance is essential to meet disaster-related related necessary expenses or serious needs of individuals or families adversely affected by a major disaster, emergency, or civil defense emergency that may not be otherwise met from other means of assistance, to (a) accept a grant by the federal government to provide such financial assistance, subject to such terms and conditions as may be imposed upon the grant, and (b) provide assistance from the Governor's Emergency Fund to such individual assistance programs as may be required by terms and conditions of the federal program.

(2) The Adjutant General shall make such regulations establish such individual assistance programs as shall be necessary to carry out the purposes of subsection (1) of this section, including, but not limited to: (a) Standards of eligibility for persons applying for benefits; (b) procedures for application and administration; (c) methods of investigating, filing, and approving applications; and (d) formation of local or statewide boards to pass



upon applications and procedure for appeals. Such rules, regulations, and standards shall, upon approval thereof by the Governor, be promulgated so as to meet disaster-related necessary expenses and serious needs of individuals. For the purposes of this subsection, necessary expenses and serious needs shall mean those essential requirements of food, health, clothing, and shelter.

Sec. 48. 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 the Emergency Management Act 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 guilty of a Class I misdemeanor.

Sec. 49. On and after the effective date of this act, all references in statutes, rules, regulations, ordinances, resolutions, and other documents to the Nebraska Disaster and Civil Defense Act of 1973 shall be construed to mean the Emergency Management Act and all references in statutes, rules, regulations, ordinances, resolutions, and other documents to the civil defense agency in the Adjutant General's office shall be construed to mean the Nebraska Emergency Management Agency.

Sec. 50. Section 81-1120.17, Reissue Revised Statutes of Nebraska, is amended to read:

81-1120.17. The division of communications shall have the following duties, powers, and responsibilities:

(1) To coordinate the purchase, lease, and use of communications services equipment and facilities for state government;

(2) To advise departments and agencies of the state and political subdivisions thereof as to systems or methods to be used to meet requirements efficiently and effectively;

(3) To consolidate and integrate radio communications systems and services of state agencies so far as practical and to provide for their joint use by the agencies;

(4) To consolidate telephone and telephone-related activities, so far as practical, and to provide for their joint use by the agencies;

(5) To assume management responsibility for any consolidated system or service and approve all purchases and contracts for such communications activities;

(6) To enter into agreements for the mutual support and use of communications services of the agencies and departments of state government and its political subdivisions;

(7) To provide for the rendering of mutual aid between state government and its political subdivisions and to cooperate with other states and the federal government with respect to the organizing of communications in expediting the carrying out of mutual aid in disasters, emergencies, and civil defense emergencies under the Emergency Management Act;

(8) To use or acquire communications facilities now owned or operated by any state agency and to compensate such agency when appropriate;

(9) To standardize policies and procedures for the use of such services in such a manner that communications systems in the domain of public safety or security not be compromised;

(10) To assume responsibility for the maintenance and repair of state-owned communications facilities so far as practical;

(11) To coordinate and consolidate maintenance and repair procedures and facilities so far as possible in the light of good business practice and the requirements of the agencies and departments concerned;

(12) Subject to the conditions provided in section 81-1120.19, to contract with qualified suppliers and communications common carriers for communications facilities or services, including private-line services;

(13) To apply for, receive, coordinate, and hold, or, if appropriate, assist agencies in applying for, receiving, or holding such authorizations, licenses, and allocations of channels and frequencies as are necessary to carry out the purposes of sections 81-1120.01 to 81-1120.03 and 81-1120.15 to 81-1120.28;

(14) To acquire real estate, equipment, and other property as an agency of the state, subject to the provisions of section 81-1120.19;

(15) To cooperate with the Civil Defense Nebraska Emergency Management Agency as to its needs for emergency communications services; and

(16) To insure that communications facilities are not used for any purpose which is contrary to the policy and intent of sections 23-1715, ~~81-1100.02~~, 81-1120.01 to 81-1120.03, and 81-1120.15 to 81-1120.28, and



81-1423 or contrary to the laws and agreements under which the facilities are to be utilized.

Sec. 51. Section 81-1120.25, Reissue Revised Statutes of Nebraska, is amended to read:

81-1120.25. In the event of an emergency, the Governor may direct civil defense the assumption of control over all or part of the communications system pursuant to the Emergency Management Act.

Sec. 52. Section 86-702, Reissue Revised Statutes of Nebraska, is amended to read:

86-702. (1) Except as otherwise specifically provided in sections 86-701 to 86-707, it shall be unlawful to: (a) Intentionally intercept, endeavor to intercept, or procure any other person to intercept or endeavor to intercept any wire, electronic, or oral communication; (b) intentionally use, endeavor to use, or procure any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral communication when (i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication or (ii) such device transmits communications by radio or interferes with the transmission of such communication; (c) intentionally disclose or endeavor to disclose to any other person the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this subsection; (d) intentionally use or endeavor to use the contents of any wire, electronic, or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire, electronic, or oral communication in violation of this subsection; or (e) having knowledge that an investigative or law enforcement officer has been authorized or has applied for authorization under sections 86-701 to 86-712 to intercept a wire, oral, or electronic communication, give notice or attempt to give notice of the possible interception to any person in order to obstruct, impede, or prevent such interception. Except as provided in subdivisions (4)(a) and (5)(b) of this section, any person who violates this subsection shall be guilty of a Class IV felony.

(2)(a) It shall not be unlawful under sections 86-701 to 86-707 for an employer on his, her, or its business premises, for an operator of a switchboard, or for an officer, employee, or agent of any provider, the facilities of which are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his, her, or its employment while engaged in any activity which is a necessary incident to the rendition of his, her, or its service or to the protection of the rights or property of the carrier or provider of such communication services. Such employers and providers shall not utilize service observing or random monitoring except for mechanical, service quality, or performance control checks as long as reasonable notice of the policy of random monitoring is provided to their employees.

(b) It shall not be unlawful under sections 86-701 to 86-707 for a person acting under color of law to intercept a wire, electronic, or oral communication when such person is a party to the communication or one of the parties to the communication has given prior consent to such interception.

(c) It shall not be unlawful under sections 86-701 to 86-707 for a person not acting under color of law to intercept a wire, electronic, or oral communication when such person is a party to the communication or when one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the Constitution or laws of the United States or of any state.

(d) It shall not be unlawful under sections 86-701 to 86-707:

(i) To intercept or access an electronic communication made through an electronic communications system that is configured so that such electronic communication is readily accessible to the general public;

(ii) To intercept any radio communication which is transmitted:

(A) By any station for the use of the general public or that relates to ships, aircraft, vehicles, or persons in distress;

(B) By any governmental, law enforcement, civil defense emergency management, private land mobile, or public safety communications system, including police and fire, readily accessible to the general public;

(C) By a station operating on an authorized frequency within the bands allocated to the amateur, citizens band, or general mobile radio services; or

(D) By any marine or aeronautical communications system;

(iii) To engage in any conduct which:

(A) Is prohibited by section 633 of the federal Communications Act

of 1934, 47 U.S.C. 151 et seq.; or

(B) Is excepted from the application of section 705(a) of the federal Communications Act of 1934, 47 U.S.C. 151 et seq., by section 705(b) of such act;

(iv) To intercept any wire or electronic communication the transmission of which is causing harmful interference to any lawfully operating station or consumer electronic equipment to the extent necessary to identify the source of such interference; or

(v) For other users of the same frequency to intercept any radio communication made through a system that utilizes frequencies monitored by individuals engaged in the provision or the use of such system if such communication is not scrambled or encrypted.

(e) It shall not be unlawful under sections 86-701 to 86-707 and 86-707.03 to 86-707.06:

(i) To use a pen register or a trap-and-trace device; or

(ii) For a provider of an electronic communication service to record the fact that a wire or electronic communication was initiated or completed in order to protect such provider, another provider furnishing service toward the completion of the wire or electronic communication, or a user of that service from fraudulent, unlawful, or abusive use of such service.

(3)(a) Except as provided in subsection (1) of this section and subdivision (b) of this subsection, a person or entity providing an electronic communication service to the public shall not intentionally divulge the contents of any communication, other than one to such person or entity or an agent thereof, while in transmission on such service to any person or entity other than an addressee or intended recipient of such communication or an agent of such addressee or intended recipient.

(b) A person or entity providing an electronic communication service to the public may divulge the contents of any such communication:

(i) As otherwise authorized in subdivision (a) of this subsection or section 86-704;

(ii) With the lawful consent of the originator or any addressee or intended recipient of such communication;

(iii) To a person employed or authorized, or whose facilities are used, to forward such communication to its destination; or

(iv) Which was inadvertently obtained by the provider and which appears to pertain to the commission of a crime if such divulgence is made to a law enforcement officer.

(4)(a) If the offense is a first offense under subsection (1) of this section and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain and the wire or electronic communication with respect to the offense under subsection (1) of this section is a radio communication that 'is not scrambled or encrypted, then:

(i) If the communication is not the radio portion of a cellular telephone communication, a public land mobile radio service communication, or a paging service communication and the conduct is not that described in subsection (5) of this section, the offender shall be guilty of a Class I misdemeanor; or

(ii) If the communication is the radio portion of a cellular telephone communication, a public land mobile radio service communication, or a paging service communication, the offender shall be guilty of a Class III misdemeanor.

(b) Conduct, otherwise an offense under this subsection that consists of or relates to the interception of a satellite transmission that is not encrypted or scrambled and that is transmitted: (i) To a broadcasting station for purposes of retransmission to the general public; or (ii) as an audio subcarrier intended for redistribution to facilities open to the public but not including data transmissions or telephone calls, shall not be an offense under this subsection unless the conduct is for the purposes of direct or indirect commercial advantage or private financial gain.

(5)(a) If the communication is: (i) A private satellite video communication that is not scrambled or encrypted and the conduct in violation of sections 86-701 to 86-707 is the private viewing of that communication and is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain; or (ii) a radio communication that is transmitted on frequencies allocated under subpart D of part 74 of the rules of the Federal Communications Commission and that is not scrambled or encrypted and the conduct in violation of sections 86-701 to 86-707 is not for a tortious or illegal purpose or for purposes of direct or indirect commercial advantage or private commercial gain, then the person who engages in such conduct shall be subject to suit by the state in a court of competent

jurisdiction.

(b) In an action under this subsection:

(i) If the violation is a first offense by the person under subsection (1) of this section and such person has not been found liable in a civil action under section 86-707.02, the state shall be entitled to appropriate injunctive relief; and

(ii) If the violation is a second or subsequent offense under subsection (1) of this section or such person has been found liable in any prior civil action under section 86-707.02, the person shall be subject to a mandatory five-hundred-dollar civil fine.

(c) The court may use any means within its authority to enforce an injunction issued under this subsection and shall impose a civil fine of not less than five hundred dollars for each violation of such an injunction.

Sec. 53. Original sections 18-1714, 23-2519, 48-126.01, 55-120, 60-6,164, 68-703, 81-829.31, 81-829.36 to 81-829.41, 81-829.43, 81-829.46 to 81-829.62, 81-829.64, 81-829.65, 81-829.69, 81-829.70, 81-829.72, 81-829.73, 81-1120.17, 81-1120.25, and 86-702, Reissue Revised Statutes of Nebraska, sections 2-4901, 18-1712, 31-727, 31-740, 31-744, 48-115, 71-5120, and 71-7318, Revised Statutes Supplement, 1994, sections 77-3439 and 81-829.42, Revised Statutes Supplement, 1995, and section 81-829.45, Reissue Revised Statutes of Nebraska, as amended by section 2, Legislative Bill 966, Ninety-fourth Legislature, Second Session, 1996, are repealed.

Sec. 54. The following sections are outright repealed: Sections 81-829.44, 81-829.63, and 81-829.74, Reissue Revised Statutes of Nebraska.