

LEGISLATIVE BILL 681

Approved by the Governor April 12, 1996

Introduced by Kristensen, 37; Lindsay, 9; Abboud, 12

AN ACT relating to business entities; to amend sections 21-1101, 21-17,132, 44-4002, 67-301, 67-303 to 67-306, 67-311, 67-315, 67-318, 67-325, 67-328, 67-334, 67-336, and 67-340, Reissue Revised Statutes of Nebraska, sections 21-2602, 21-2619, 21-2621, 21-2622, 21-2628, 21-2631 to 21-2631.03, 21-2649, and 67-302, Revised Statutes Supplement, 1994, and sections 8-1401, 21-2048, 23-3504, 33-101, 44-3312, and 44-3812, Revised Statutes Supplement, 1995; to adopt a new and repeal the old Nebraska Nonprofit Corporation Act; to change certain shareholders' preemptive rights; to change limited liability company provisions; to provide for limited liability partnerships; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; to outright repeal sections 21-1901 to 21-1903, 21-1905 to 21-1989, 21-1991, 21-1996 to 21-19,106, and 21-19,109, Reissue Revised Statutes of Nebraska, section 21-1904, Revised Statutes Supplement, 1994, and sections 21-19,107 and 21-19,108, Revised Statutes Supplement, 1995; and to declare an emergency.

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

Section 1. Sections 1 to 177 of this act shall be known and may be cited as the Nebraska Nonprofit Corporation Act.

Sec. 2. The Legislature shall have the power to amend or repeal all or part of the Nebraska Nonprofit Corporation Act at any time and all domestic and foreign corporations subject to the act are governed by the amendment or repeal.

Sec. 3. (a) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the Secretary of State.

(b) The Nebraska Nonprofit Corporation Act must require or permit filing the document in the office of the Secretary of State.

(c) The document must contain the information required by the act. It may contain other information as well.

(d) The document must be typewritten or printed.

(e) The document must be in the English language. However, a corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations need not be in English if accompanied by a reasonably authenticated English translation.

(f) The document must be executed:

(1) By the presiding officer of its board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

(3) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.

(g) The person executing a document shall sign it and state beneath or opposite the signature his or her name and the capacity in which he or she signs. The document may, but need not, contain:

(1) The corporate seal;

(2) An attestation by the secretary or an assistant secretary; or

(3) An acknowledgment, verification, or proof.

(h) If the Secretary of State has prescribed a mandatory form for a document under section 4 of this act, the document must be in or on the prescribed form.

(i) The document must be delivered to the office of the Secretary of State for filing and must be accompanied by one exact or conformed copy (except as provided in sections 36 and 154 of this act), the correct filing fee, and any tax, license fee, or penalty required by the Nebraska Nonprofit Corporation Act or other law.

Sec. 4. (a) The Secretary of State may prescribe and furnish, on request, forms for: (1) An application for a certificate of existence; (2) a foreign corporation's application for a certificate of authority to transact business in this state; (3) a foreign corporation's application for a certificate of withdrawal; and (4) the biennial report. If the Secretary of State so requires, use of these forms is mandatory.

(b) The Secretary of State may prescribe and furnish, on request, forms for other documents required or permitted to be filed by the Nebraska Nonprofit Corporation Act but their use is not mandatory.

Sec. 5. (a) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered for filing:

<u>Document</u>	<u>Fee</u>
<u>(1)(i) Articles of incorporation or (ii) documents relating to domestication</u>	<u>\$ 10.00</u>
<u>(2) Application for use of indistinguishable name</u>	<u>\$ 25.00</u>
<u>(3) Application for reserved name</u>	<u>\$ 25.00</u>
<u>(4) Notice of transfer of reserved name</u>	<u>\$ 25.00</u>
<u>(5) Application for registered name</u>	<u>\$ 25.00</u>
<u>(6) Application for renewal of registered name</u>	<u>\$ 25.00</u>
<u>(7) Corporation's statement of change of registered agent or registered office or both</u>	<u>\$ 5.00</u>
<u>(8) Agent's statement of change of registered office for each affected corporation</u>	<u>\$ 25.00</u>
	<u>(not to exceed a total of \$1,000.00)</u>
<u>(9) Agent's statement of resignation</u>	<u>no fee</u>
<u>(10) Amendment of articles of incorporation</u>	<u>\$ 5.00</u>
<u>(11) Restatement of articles of incorporation with amendments</u>	<u>\$ 5.00</u>
<u>(12) Articles of merger</u>	<u>\$ 5.00</u>
<u>(13) Articles of dissolution</u>	<u>\$ 5.00</u>
<u>(14) Articles of revocation of dissolution</u>	<u>\$ 5.00</u>
<u>(15) Certificate of administrative dissolution</u>	<u>no fee</u>
<u>(16) Application for reinstatement following administrative dissolution</u>	<u>\$ 5.00</u>
<u>(17) Certificate of reinstatement</u>	<u>no fee</u>
<u>(18) Certificate of judicial dissolution</u>	<u>no fee</u>
<u>(19) Certificate of authority</u>	<u>\$ 10.00</u>
<u>(20) Application for amended certificate of authority</u>	<u>\$ 5.00</u>
<u>(21) Application for certificate of withdrawal</u>	<u>\$ 5.00</u>
<u>(22) Certificate of revocation of authority to transact business</u>	<u>no fee</u>
<u>(23) Biennial report</u>	<u>\$ 20.00</u>
<u>(24) Articles of correction</u>	<u>\$ 5.00</u>
<u>(25) Application for certificate of good standing</u>	<u>\$ 10.00</u>
<u>(26) Any other document required or permitted to be filed by the Nebraska Nonprofit Corporation Act</u>	<u>\$ 5.00</u>
<u>(i) Amendments</u>	<u>\$ 5.00</u>
<u>(ii) Mergers</u>	<u>\$ 5.00</u>

(b) The Secretary of State shall collect a recording fee of five dollars per page in addition to the fees set forth in subsection (a) of this section.

(c) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

- (1) \$1.00 per page; and
- (2) \$10.00 for the certificate.

(d) All fees set forth in this section shall be collected by the Secretary of State and remitted to the State Treasurer and credited two-thirds to the General Fund and one-third to the Corporation Cash Fund.

Sec. 6. (a) Except as provided in subsection (b) of this section, a document is effective:

- (1) At the time of filing on the date it is filed, as evidenced by the Secretary of State's endorsement on the original document; or
- (2) At the time specified in the document as its effective time on the date it is filed.

(b) A document may specify a delayed effective time and date, and if it does so the document becomes effective at the time and date specified. If a delayed effective date but no time is specified, the document is effective at the close of business on that date. A delayed effective date for a document may not be later than the ninetieth day after the date filed.

Sec. 7. (a) A domestic or foreign corporation may correct a

document filed by the Secretary of State if the document: (1) Contains an incorrect statement or (2) was defectively executed, attested to, sealed, verified, or acknowledged.

(b) A document is corrected:

(1) By preparing articles of correction that (i) describe the document (including its filing date) or attach a copy of it to the articles, (ii) specify the incorrect statement and the reason it is incorrect or the manner in which the execution was defective, and (iii) correct the incorrect statement or defective execution; and

(2) By delivering the articles of correction to the Secretary of State.

(c) Articles of correction are effective on the effective date of the document they correct except as to persons relying on the uncorrected document and who are adversely affected by the correction. As to those persons, articles of correction are effective when filed.

Sec. 8. (a) If a document delivered to the office of the Secretary of State for filing satisfies the requirements of section 3 of this act, the Secretary of State shall file it.

(b) The Secretary of State files a document by stamping or otherwise endorsing "Filed," together with the Secretary of State's name and official title and the date and the time of receipt, on both the original and the document copy. After filing a document, except as provided in sections 36 and 154 of this act, the Secretary of State shall deliver the document copy, with the acknowledgment of receipt of the filing fee, if a fee is required, to the domestic or foreign corporation or its representative.

(c) Upon refusing to file a document, the Secretary of State shall return it to the domestic or foreign corporation or its representative within five days after the document was delivered, together with a brief, written explanation of the reason or reasons for the refusal.

(d) The Secretary of State's duty to file documents under this section is ministerial. Filing or refusing to file a document does not:

(1) Affect the validity or invalidity of the document in whole or in part;

(2) Relate to the correctness or incorrectness of information contained in the document; or

(3) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Sec. 9. (a) If the Secretary of State refuses to file a document delivered for filing to the Secretary of State's office, the domestic or foreign corporation may appeal the refusal to the district court of Lancaster County. The appeal is commenced by petitioning the court to compel filing the document and by attaching to the petition the document and the Secretary of State's explanation for the refusal to file.

(b) The district court may summarily order the Secretary of State to file the document or take other action the court considers appropriate.

(c) The court's final decision may be appealed as in other civil proceedings.

Sec. 10. A certificate attached to a copy of a document bearing the Secretary of State's signature (which may be in facsimile) and the seal of this state is conclusive evidence that the original document is on file with the Secretary of State.

Sec. 11. (a) Any person may apply to the Secretary of State to furnish a certificate of existence for a domestic or foreign corporation.

(b) The certificate of existence shall set forth:

(1) The domestic corporation's corporate name or the foreign corporation's corporate name used in this state;

(2) That (i) the domestic corporation is duly incorporated under the law of this state, the date of its incorporation, and the period of its duration if less than perpetual or (ii) the foreign corporation is authorized to transact business in this state;

(3) That all fees, taxes, and penalties owed to this state have been paid, if (i) payment is reflected in the records of the Secretary of State and (ii) nonpayment affects the good standing of the domestic or foreign corporation;

(4) That its most recent biennial report required by section 172 of this act has been delivered to the Secretary of State; and

(5) That articles of dissolution have not been filed.

(c) Subject to any qualification stated in the certificate, a certificate of existence issued by the Secretary of State may be relied upon as conclusive evidence that the domestic or foreign corporation is in good standing in this state.

Sec. 12. (a) A person commits an offense by signing a document such

person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing.

(b) Any person who violates this section is guilty of a Class I misdemeanor.

Sec. 13. The Secretary of State has the power reasonably necessary to perform the duties required of his or her office by the Nebraska Nonprofit Corporation Act.

Sec. 14. For purposes of the Nebraska Nonprofit Corporation Act, unless the context otherwise requires:

(1) Approved by (or approval by) the members means approved or ratified by the affirmative vote of a majority of the votes represented and voting at a duly held meeting at which a quorum is present (which affirmative votes also constitute a majority of the required quorum) or by a written ballot, or written consent in conformity with the act or by the affirmative vote, written ballot, or written consent of such greater proportion, including the votes of all the members of any class, unit, or grouping as may be provided in the articles, bylaws, or the act for any specified member action;

(2) Articles of incorporation or articles include amended and restated articles of incorporation and articles of merger;

(3) Board or board of directors means the board of directors except that no person or group of persons are the board of directors because of powers delegated to that person or group pursuant to section 68 of this act;

(4) Bylaws means the code or codes of rules (other than the articles) adopted pursuant to the act for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;

(5) Class means a group of memberships which have the same rights with respect to voting, dissolution, redemption, and transfer. For purposes of this section, rights shall be considered the same if they are determined by a formula applied uniformly;

(6) Corporation means a public benefit, a mutual benefit, or a religious corporation;

(7) Delegate means a person elected or appointed to vote in a representative assembly for the election of a director or directors or on other matters;

(8) Deliver includes mail;

(9) Director means an individual, designated in the articles or bylaws or elected by the incorporators, and his or her successor and an individual elected or appointed by any other name or title to act as a member of the board;

(10) Distribution means the payment of a dividend or any part of the income or profit of a corporation to its members, directors, or officers;

(11) Domestic corporation means a corporation;

(12) Effective date of notice has the same meaning as in section 15 of this act;

(13) Employee does not include an officer or director who is not otherwise employed by the corporation;

(14) Entity includes corporation and foreign corporation; business corporation and foreign business corporation; profit and nonprofit unincorporated association; corporation sole; business trust, estate, partnership, limited liability company, registered limited liability partnership, trust, and two or more persons having a joint or common economic interest; state or the United States; and foreign government;

(15) File, filed, or filing means filed in the office of the Secretary of State;

(16) Foreign corporation means a corporation organized under a law other than the law of this state which would be a nonprofit corporation if formed under the laws of this state;

(17) Governmental subdivision includes authority, county, district, and municipality;

(18) Individual includes the estate of an incompetent individual;

(19) Member means (without regard to what a person is called in the articles or bylaws) any person or persons who on more than one occasion, pursuant to a provision of a corporation's articles or bylaws, have the right to vote for the election of a director or directors;

A person is not a member by virtue of any of the following:

(i) Any rights such person has as a delegate;

(ii) Any rights such person has to designate a director or directors; or

(iii) Any rights such person has as a director;

(20) Membership means the rights and obligations a member or members have pursuant to a corporation's articles, bylaws, and the act;

(21) Mutual benefit corporation means a domestic corporation which is formed as a mutual benefit corporation pursuant to sections 20 to 26 of this act or is required to be a mutual benefit corporation pursuant to section 177 of this act;

(22) Notice has the same meaning as in section 15 of this act;

(23) Person includes any individual or entity;

(24) Principal office means the office (in or out of this state) so designated in the biennial report filed pursuant to section 172 of this act where the principal offices of a domestic or foreign corporation is located;

(25) Proceeding includes civil, criminal, administrative, and investigatory actions;

(26) Public benefit corporation means a domestic corporation which is formed as a public benefit corporation pursuant to sections 20 to 26 of this act or is required to be a public benefit corporation pursuant to section 177 of this act;

(27) Record date means the date established under sections 38 to 50 or 51 to 67 of this act on which a corporation determines the identity of its members for the purposes of the act;

(28) Religious corporation means a domestic corporation which is formed as a religious corporation pursuant to sections 20 to 26 of this act or is required to be a religious corporation pursuant to section 177 of this act;

(29) Secretary means the corporate officer to whom the board of directors has delegated responsibility under subsection (b) of section 90 of this act for custody of the minutes of the directors' and members' meetings and for authenticating the records of the corporation;

(30) State, when referring to a part of the United States, includes a state and commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States;

(31) United States includes district, authority, bureau, commission, department, and any other agency of the United States;

(32) Vote includes authorization by written ballot and written consent; and

(33) Voting power means the total number of votes entitled to be cast for the election of directors at the time the determination of voting power is made, excluding a vote which is contingent upon the happening of a condition or event that has not occurred at the time. Where a class is entitled to vote as a class for directors, the determination of voting power of the class shall be based on the percentage of the number of directors the class is entitled to elect out of the total number of authorized directors.

Sec. 15. (a) Notice may be oral or written.

(b) Notice may be communicated in person, by telephone, by telegraph, by teletype, by other form of wire or wireless communication, or by mail or private carrier. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published, by radio, by television, or by other form of public broadcast communication.

(c) Oral notice is effective when communicated if communicated in a comprehensible manner.

(d) Written notice, if in a comprehensible form, is effective at the earliest of the following:

(1) When received;

(2) Five days after its deposit in the United States mail, as evidenced by the postmark, if mailed correctly addressed and with first class postage affixed;

(3) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee; or

(4) Thirty days after its deposit in the United States mail, as evidenced by the postmark, if mailed correctly addressed and with other than first class, registered or certified postage affixed.

(e) Written notice is correctly addressed to a member of a domestic or foreign corporation if addressed to the member's address shown in the corporation's current list of members.

(f) A written notice or report delivered as part of a newsletter, magazine, or other publication regularly sent to members shall constitute a written notice or report if addressed or delivered to the member's address shown in the corporation's current list of members, or in the case of members who are residents of the same household and who have the same address in the corporation's current list of members, if addressed or delivered to one of such members at the address appearing on the current list of members.

(g) Written notice is correctly addressed to a domestic or foreign

corporation (authorized to transact business in this state), other than in its capacity as a member, if addressed to its registered agent or to its secretary at its principal office shown in its most recent biennial report or, in the case of a foreign corporation that has not yet delivered a biennial report, in its application for a certificate of authority.

(h) If any other provision of the Nebraska Nonprofit Corporation Act prescribes notice requirements for particular circumstances, such as subsection (b) of section 55 of this act, those requirements govern. If articles or bylaws prescribe notice requirements not inconsistent with this section or other provisions of the Nebraska Nonprofit Corporation Act, those requirements govern.

Sec. 16. Except when otherwise determined by a court of competent jurisdiction, a corporation that is a private foundation as defined in section 509(a) of the Internal Revenue Code:

(a) Shall distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the Internal Revenue Code;

(b) Shall not engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code;

(c) Shall not retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code;

(d) Shall not make any investments subjecting it to taxation under section 4944 of the Internal Revenue Code; and

(e) Shall not make any taxable expenditures as defined in section 4945(d) of the Internal Revenue Code.

All references in this section to sections of the Internal Revenue Code shall be to such sections of the Internal Revenue Code of 1986, as amended, or to corresponding provisions of subsequent internal revenue laws of the United States.

Sec. 17. (a) If for any reason it is impractical or impossible for any corporation to call or conduct a meeting of its members, delegates, or directors, or otherwise obtain their consent, in the manner prescribed by its articles, bylaws, or the Nebraska Nonprofit Corporation Act, then upon petition of a director, officer, delegate, member, or the Attorney General, the district court may order that such a meeting be called or that a written ballot or other form of obtaining the vote of members, delegates, or directors be authorized in such a manner it finds fair and equitable under the circumstances.

(b) The district court shall, in an order issued pursuant to this section, provide for a method of notice reasonably designed to give actual notice to all persons who would be entitled to notice of a meeting held pursuant to the articles, bylaws and the act, whether or not the method results in actual notice to all such persons or conforms to the notice requirements that would otherwise apply. In a proceeding under this section the district court may determine who the members or directors are.

(c) The order issued pursuant to this section may dispense with any requirement relating to the holding of or voting at meetings or obtaining votes, including any requirement as to quorums or as to the number or percentage of votes needed for approval, that would otherwise be imposed by the articles, bylaws, or the act.

(d) Whenever practical, any order issued pursuant to this section shall limit the subject matter of meetings or other forms of consent authorized to items, including amendments to the articles or bylaws, the resolution of which will or may enable the corporation to continue managing its affairs without further resort to this section. An order under this section may also authorize the obtaining of whatever votes and approvals are necessary for the dissolution, merger, or sale of assets.

(e) Any meeting or other method of obtaining the vote of members, delegates, or directors conducted pursuant to an order issued under this section, and that complies with all the provisions of such order, is for all purposes a valid meeting or vote, as the case may be, and shall have the same force and effect as if it complied with every requirement imposed by the articles, bylaws, and the act.

Sec. 18. (a) The Attorney General shall be given notice of the commencement of any proceeding that the Nebraska Nonprofit Corporation Act authorizes him or her to bring but that has been commenced by another person.

(b) Whenever any provision of the act requires that notice be given to the Attorney General before or after commencing a proceeding or permits him or her to commence a proceeding:

(1) If no proceeding has been commenced, the Attorney General may take appropriate action including, but not limited to, seeking injunctive relief; or

(2) If a proceeding has been commenced by a person other than the Attorney General, the Attorney General, as of right, may intervene in such proceeding.

Sec. 19. If religious doctrine governing the affairs of a religious corporation is inconsistent with the provisions of the Nebraska Nonprofit Corporation Act on the same subject, the religious doctrine shall control to the extent required by the Constitution of the United States or the Constitution of the State of Nebraska or both.

Sec. 20. One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the Secretary of State for filing.

Sec. 21. (a) The articles of incorporation shall set forth:

(1) A corporate name for the corporation that satisfies the requirements of section 31 of this act;

(2) One of the following statements:

(i) This corporation is a public benefit corporation;

(ii) This corporation is a mutual benefit corporation; or

(iii) This corporation is a religious corporation;

(3) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

(4) The name and street address of each incorporator;

(5) Whether or not the corporation will have members; and

(6) Provisions not inconsistent with law regarding the distribution of assets on dissolution.

(b) The articles of incorporation may set forth:

(1) The purpose or purposes for which the corporation is organized, which may be either alone or in combination with other purposes, the transaction of any lawful activity;

(2) The names and street addresses of the individuals who are to serve as the initial directors;

(3) Provisions not inconsistent with law regarding:

(i) Managing and regulating the affairs of the corporation;

(ii) Defining, limiting, and regulating the powers of the corporation, its board of directors, and members (or any class of members); and

(iii) The characteristics, qualifications, rights, limitations, and obligations attaching to each or any class of members.

(4) Any provision that under the Nebraska Nonprofit Corporation Act is required or permitted to be set forth in the bylaws.

(c) Each incorporator and director named in the articles must sign the articles.

(d) The articles of incorporation need not set forth any of the corporate powers enumerated in the act.

Sec. 22. (a) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed.

(b) The Secretary of State's filing of the articles of incorporation is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Sec. 23. All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under the Nebraska Nonprofit Corporation Act, are jointly and severally liable for all liabilities created while so acting.

Sec. 24. (a) After incorporation:

(1) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting; or

(2) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators;

(i) To elect directors and complete the organization of the corporation; or

(ii) To elect a board of directors who shall complete the organization of the corporation.

(b) Action required or permitted by the Nebraska Nonprofit Corporation Act to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(c) An organizational meeting may be held in or out of this state in accordance with section 81 of this act.

Sec. 25. (a) The incorporators or board of directors of a corporation shall adopt bylaws for the corporation.

(b) The bylaws may contain any provision for regulating and managing the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

Sec. 26. (a) Unless the articles provide otherwise the directors of a corporation may adopt, amend, or repeal bylaws to be effective only in an emergency defined in subsection (d) of this section. The emergency bylaws, which are subject to amendment or repeal by the members, may provide special procedures necessary for managing the corporation during the emergency, including:

- (1) How to call a meeting of the board;
- (2) Quorum requirements for the meeting; and
- (3) Designation of additional or substitute directors.

(b) All provisions of the regular bylaws consistent with the emergency bylaws remain effective during the emergency. The emergency bylaws are not effective after the emergency ends.

(c) Corporate action taken in good faith in accordance with the emergency bylaws:

- (1) Binds the corporation; and

(2) May not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

Sec. 27. (a)(1) Every corporation incorporated under the Nebraska Nonprofit Corporation Act has the purpose of engaging in any lawful activity unless a more limited purpose is set forth in the articles of incorporation.

(2) A corporation engaging in an activity that is subject to regulation under another statute of this state may incorporate under the act only if incorporation under the act is not prohibited by the other statute. The corporation shall be subject to all limitations of the other statute.

(b) Corporations may be incorporated under the Nebraska Nonprofit Corporation Act for any one or more of, but not limited to, the following lawful purposes: Charitable; benevolent; eleemosynary; educational; civic; patriotic; political; religious; social; fraternal; literary; cultural; athletic; scientific; agricultural; horticultural; animal husbandry; and professional, commercial, industrial, or trade association. Corporations may also be incorporated under the act for the purpose of providing for, erecting, owning, leasing, furnishing, and managing any building, hall, dormitory or apartments, lands or grounds for the use or benefit in whole or in part of any governmental, religious, social, educational, scientific, fraternal, or charitable society or societies, body or bodies, institution or institutions, incorporated or unincorporated, or for the purpose of holding property of any nature in trust for such society, body, or institution or for the purpose of assisting any governmental body in obtaining grants from the federal government, the performance of any requirements necessary to obtain a federal grant or carrying out the purpose for which a federal grant is obtained. Such corporations, as to the ownership and taxation of their property, shall have all the rights, privileges, and exemptions of the body, society, or institution for whose use or benefit or for whom in trust such property is held.

Sec. 28. Unless its articles of incorporation provide otherwise, every corporation has perpetual duration and succession in its corporate name and has the same powers as an individual to do all things necessary or convenient to carry out its affairs including, without limitation, the power:

- (1) To sue and be sued, complain, and defend in its corporate name;

(2) To have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing or in any other manner reproducing it;

(3) To make and amend bylaws not inconsistent with its articles of incorporation or with the laws of this state, for regulating and managing the affairs of the corporation;

(4) To purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, real or personal property, or any legal or equitable interest in property, wherever located;

(5) To sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;

(6) To purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with, shares or other interests in, or obligations of, any entity;

- (7) To make contracts and guaranties, incur liabilities, borrow

money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;

(8) To lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by section 88 of this act;

(9) To be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;

(10) To conduct its activities, locate offices, and exercise the powers granted by the Nebraska Nonprofit Corporation Act within or without this state;

(11) To elect or appoint directors, officers, employees, and agents of the corporation, define their duties, and fix their compensation;

(12) To pay pensions and establish pension plans, pension trusts, and other benefit and incentive plans for any or all of its current or former directors, officers, employees, and agents;

(13) To make donations not inconsistent with law for the public welfare or for charitable, religious, scientific, or educational purposes and for other purposes that further the corporate interest;

(14) To impose dues, assessments, admission, and transfer fees upon its members;

(15) To establish conditions for admission of members, admit members, and issue memberships;

(16) To carry on a business; and

(17) To do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of the corporation.

Sec. 29. (a) In anticipation of or during an emergency defined in subsection (d) of this section, the board of directors of a corporation may:

(1) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

(2) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officer to do so.

(b) During an emergency defined in subsection (d) of this section, unless emergency bylaws provide otherwise:

(1) Notice of a meeting of the board of directors need be given only to those directors it is practicable to reach and may be given in any practicable manner, including by publication and radio; and

(2) One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(c) Corporate action taken in good faith during an emergency under this section to further the ordinary affairs of the corporation:

(1) Binds the corporation; and

(2) May not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

Sec. 30. (a) Except as provided in subsection (b) of this section, the validity of corporate action may not be challenged on the ground that the corporation lacks or lacked power to act.

(b) A corporation's power to act may be challenged in a proceeding against the corporation to enjoin an act when a third party has not acquired rights. The proceeding may be brought by the Attorney General, a director, or by a member or members in a derivative proceeding.

(c) A corporation's power to act may be challenged in a proceeding against an incumbent or former director, officer, employee, or agent of the corporation. The proceeding may be brought by a director, the corporation (directly, derivatively, or through a receiver, a trustee, or other legal representative), or in the case of a public benefit corporation, by the Attorney General.

Sec. 31. (a) A corporate name may not contain language stating or implying that the corporation is organized for a purpose other than that permitted by section 27 of this act and its articles of incorporation.

(b) Except as authorized by subsections (c) and (d) of this section, a corporate name must be distinguishable upon the records of the Secretary of State from:

(1) The corporate name of a nonprofit or business corporation incorporated or authorized to do business in this state;

(2) A corporate name reserved or registered under section 32 or 33 of this act or section 21-2029 or 21-2030;

(3) The fictitious name of a foreign business or nonprofit corporation authorized to transact business in this state because its real name is unavailable; and

(4) A trade name registered in this state pursuant to sections 87-208 to 87-220.

(c) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one or more of the names described in subsection (b) of this section. The Secretary of State shall authorize use of the name applied for if:

(1) The other corporation consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(2) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(d) A corporation may use the name (including the fictitious name) of another domestic or foreign business or nonprofit corporation that is used in this state if the other corporation is incorporated or authorized to do business in this state and the proposed user corporation:

(1) Has merged with the other corporation;

(2) Has been formed by reorganization of the other corporation; or

(3) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(e) The Nebraska Nonprofit Corporation Act does not control the use of fictitious names.

Sec. 32. (a) A person may reserve the exclusive use of a corporate name including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the Secretary of State for filing. Upon finding that the corporate name applied for is available, the Secretary of State shall reserve the name for the applicant's exclusive use for a nonrenewable one-hundred-twenty-day period.

(b) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the Secretary of State a signed notice of the transfer that states the name and address of the transferee.

Sec. 33. (a) A foreign corporation may register its corporate name, or its corporate name with any change required by section 151 of this act, if the name is distinguishable upon the records of the Secretary of State from:

(1) The corporate name of a nonprofit or business corporation incorporated or authorized to do business in this state; and

(2) A corporate name reserved under section 32 of this act or section 21-2029 or registered under this section.

(b) A foreign corporation registers its corporate name, or its corporate name with any change required by section 151 of this act, by delivering to the Secretary of State an application:

(1) Setting forth its corporate name, or its corporate name with any change required by section 151 of this act, the state or country and date of its incorporation, and a brief description of the nature of the activities in which it is engaged; and

(2) Accompanied by a certificate of existence (or a document of similar import) from the state or country of incorporation. Such certificate or document shall not bear a date of more than sixty days prior to the date the application is filed in this state.

(c) The corporate name is registered for the applicant's exclusive use upon the effective date of the application.

(d) A foreign corporation whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application, which complies with the requirements of subsection (b) of this section, between October 1 and December 31 of the preceding year. The renewal application renews the registration for the following calendar year.

(e) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under that name or consent in writing to the use of that name by a corporation thereafter incorporated under the Nebraska Nonprofit Corporation Act or by another foreign corporation thereafter authorized to transact business in this state. The registration terminates when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

Sec. 34. Each corporation must continuously maintain in this state:

(1) A registered office with the same address as that of the registered agent; and

(2) A registered agent, who may be:

- (i) An individual who resides in this state and whose office is identical with the registered office;
- (ii) A domestic business or nonprofit corporation whose office is identical with the registered office; or
- (iii) A foreign business or nonprofit corporation authorized to transact business in this state whose office is identical with the registered office.

Sec. 35. (a) A corporation may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

- (1) The name of the corporation;
- (2) The street address of its current registered office;
- (3) If the current registered office is to be changed, the street address of the new registered office;
- (4) The name of its current registered agent;
- (5) If the current registered agent is to be changed, the name of the new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; and
- (6) That after the change or changes are made, the street addresses of its registered office and the office of its registered agent will be identical.

(b) If the street address of a registered agent's office is changed, the registered agent may change the street address of the registered office of any corporation for which the registered agent is the registered agent by notifying the corporation in writing of the change and by signing (either manually or in facsimile) and delivering to the Secretary of State for filing a statement that complies with the requirements of subsection (a) of this section and recites that the corporation has been notified of the change.

Sec. 36. (a) A registered agent may resign as the registered agent by signing and delivering to the Secretary of State the original and two exact or conformed copies of a statement of resignation. The statement may include a statement that the registered office is also discontinued.

(b) After filing the statement the Secretary of State shall mail one copy to the registered office (if not discontinued) and the other copy to the corporation at its principal office as shown in the most recent biennial report filed pursuant to section 172 of this act.

(c) The agency appointment is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

Sec. 37. (a) A corporation's registered agent is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the corporation.

(b) If a corporation has no registered agent, or the agent cannot with reasonable diligence be served, the corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the corporation at its principal office shown in the most recent biennial report filed pursuant to section 172 of this act. Service is perfected under this subsection on the earliest of:

- (1) The date the corporation receives the mail;
- (2) The date shown on the return receipt, if signed on behalf of the corporation; or
- (3) Five days after its deposit in the United States mail, if mailed and correctly addressed with first class postage affixed.

(c) This section does not prescribe the only means, or necessarily the required means, of serving a corporation.

Sec. 38. (a) The articles or bylaws may establish criteria or procedures for admission of members.

(b) No person shall be admitted as a member without his or her consent.

Sec. 39. Except as provided in its articles or bylaws, a corporation may admit members for no consideration or for such consideration as is determined by the board.

Sec. 40. A corporation is not required to have members.

Sec. 41. All members shall have the same rights and obligations with respect to voting, dissolution, redemption, and transfer, unless the articles or bylaws establish classes of membership with different rights or obligations. All members shall have the same rights and obligations with respect to any other matters, except as set forth in or authorized by the articles or bylaws.

Sec. 42. (a) Except as set forth in or authorized by the articles or bylaws, no member of a mutual benefit corporation may transfer a membership

or any right arising therefrom.

(b) No member of a public benefit or religious corporation may transfer a membership or any right arising therefrom.

(c) When transfer rights have been provided, no restriction on them shall be binding with respect to a member holding a membership issued prior to the adoption of the restriction unless the restriction is approved by the members and the affected member.

Sec. 43. A member of a corporation is not, as such, personally liable for the acts, debts, liabilities, or obligations of the corporation.

Sec. 44. A member may become liable to the corporation for dues, assessments, or fees. However, an article or bylaw provision or a resolution adopted by the board authorizing or imposing dues, assessments, or fees does not, of itself, create liability.

Sec. 45. (a) No proceeding may be brought by a creditor to reach the liability, if any, of a member to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless such proceeding would be useless.

(b) All creditors of the corporation, with or without reducing their claims to judgment, may intervene in any creditor's proceeding brought under subsection (a) of this section to reach and apply unpaid amounts due the corporation. Any or all members who owe amounts to the corporation may be joined in such proceeding.

Sec. 46. (a) A member may resign at any time.

(b) The resignation of a member does not relieve the member from any obligations the member may have to the corporation as a result of obligations incurred or commitments made prior to resignation.

Sec. 47. (a) No member of a public benefit or mutual benefit corporation may be expelled or suspended, and no membership or memberships in such corporations may be terminated or suspended except pursuant to a procedure that is fair and reasonable and is carried out in good faith.

(b) A procedure is fair and reasonable when either:

(1) The articles or bylaws set forth a procedure that provides:

(i) Not less than fifteen days' prior written notice of the expulsion, suspension, or termination and the reasons therefor; and

(ii) An opportunity for the member to be heard, orally or in writing, not less than five days before the effective date of the expulsion, suspension, or termination by a person or persons authorized to decide that the proposed expulsion, suspension, or termination not take place; or

(2) It is fair and reasonable taking into consideration all of the relevant facts and circumstances.

(c) Any written notice given by mail must be given by first-class or certified mail sent to the last-known address of the member shown on the corporation's records.

(d) Any proceeding challenging an expulsion, suspension, or termination, including a proceeding in which defective notice is alleged, must be commenced within one year after the effective date of the expulsion, suspension, or termination.

(e) A member who has been expelled or suspended may be liable to the corporation for dues, assessments, or fees as a result of obligations incurred or commitments made prior to expulsion or suspension.

Sec. 48. (a) A public benefit or religious corporation may not purchase any of its memberships or any right arising therefrom.

(b) A mutual benefit corporation may purchase the membership of a member who resigns or whose membership is terminated for the amount and pursuant to the conditions set forth in or authorized by its articles or bylaws, but no payment shall be made in violation of sections 127 and 128 of this act.

Sec. 49. (a) A proceeding may be brought in the right of a domestic or foreign corporation to procure a judgment in its favor by: (i) Any member or members having five percent or more of the voting power or by fifty members, whichever is less; or (ii) any director.

(b) In any such proceeding, each complainant shall be a member or director at the time of bringing the proceeding.

(c) A complaint in a proceeding brought in the right of a corporation must be verified and allege with particularity the demand made, if any, to obtain action by the directors and either why the complainants could not obtain the action or why they did not make the demand. If a demand for action was made and the corporation's investigation of the demand is in progress when the proceeding is filed, the district court may stay the proceeding until the investigation is completed.

(d) On termination of the proceeding the district court may require

the complainants to pay any defendant's reasonable expenses (including counsel fees) incurred in defending the suit if it finds that the proceeding was commenced frivolously or in bad faith.

(e) If the proceeding on behalf of the corporation results in the corporation taking some action requested by the complainants or otherwise was successful, in whole or in part, or if anything was received by the complainants as the result of a judgment, compromise, or settlement of an action or claim, the district court may award the complainants reasonable expenses (including counsel fees).

(f) The complainants shall notify the Attorney General within ten days after commencing any proceeding under this section if the proceeding involves a public benefit corporation or assets held in charitable trust by a mutual benefit corporation.

Sec. 50. (a) A corporation may provide in its articles or bylaws for delegates having some or all of the authority of members.

(b) The articles or bylaws may set forth provisions relating to:

(1) The characteristics, qualifications, rights, limitations, and obligations of delegates including their selection and removal;

(2) Calling, noticing, holding, and conducting meetings of delegates; and

(3) Carrying on corporate activities during and between meetings of delegates.

Sec. 51. (a) A corporation with members shall hold a membership meeting annually at a time stated in or fixed in accordance with the bylaws.

(b) A corporation with members may hold regular membership meetings at the times stated in or fixed in accordance with the bylaws.

(c) Annual and regular membership meetings may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual and regular meetings shall be held at the corporation's principal office. Unless the articles or bylaws provide otherwise, members may participate in an annual or regular meeting of the members or conduct the meeting through the use of any means of communication by which all members participating may simultaneously hear each other during the meeting. A member participating in a meeting by this means is deemed to be present at the meeting.

(d) At the annual meeting:

(1) The president and chief financial officer shall report on the activities and financial condition of the corporation; and

(2) The members shall consider and act upon such other matters as may be raised consistent with the notice requirements of section 55 of this act and subsection (b) of section 62 of this act.

(e) At regular meetings the members shall consider and act upon such matters as may be raised consistent with (i) the notice requirements of section 55 of this act and (ii) subsection (b) of section 62 of this act.

(f) The failure to hold an annual or regular meeting at a time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

Sec. 52. (a) A corporation with members shall hold a special meeting of members:

(1) On call of its board or the person or persons authorized to do so by the articles or bylaws; or

(2) Except as provided in the articles or bylaws of a religious corporation if the holders of at least five percent of the voting power of any corporation sign, date, and deliver to any corporate officer one or more written demands for the meeting describing the purpose or purposes for which it is to be held.

(b) The close of business on the thirtieth day before delivery of the demand or demands for a special meeting to any corporate officer is the record date for the purpose of determining whether the five percent requirement of subsection (a) of this section has been met.

(c) If a notice for a special meeting demanded under subdivision (a)(2) of this section is not given pursuant to section 55 of this act within thirty days after the date the written demand or demands are delivered to a corporate officer, regardless of the requirements of subsection (d) of this section, a person signing the demand or demands may set the time and place of the meeting and give notice pursuant to section 55 of this act.

(d) Special meetings of members may be held in or out of this state at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings shall be held at the corporation's principal office. Unless the articles or bylaws provide otherwise, members may participate in a special meeting of the members or conduct the meeting through the use of any means of communication by which all

members participating may simultaneously hear each other during the meeting. A member participating in a meeting by this means is deemed to be present at the meeting.

(e) Only those matters that are within the purpose or purposes described in the meeting notice required by section 55 of this act may be conducted at a special meeting of members.

Sec. 53. (a) The district court of the county where a corporation's principal office (or, if none in this state, its registered office) is located may summarily order a meeting to be held:

(1) On application of any member or other person entitled to participate in an annual or regular meeting, and in the case of a public benefit corporation, the Attorney General, if an annual meeting was not held within the earlier of six months after the end of the corporation's fiscal year or fifteen months after its last annual meeting; or

(2) On application of any member or other person entitled to participate in a regular meeting, and in the case of a public benefit corporation, the Attorney General, if a regular meeting is not held within forty days after the date it was required to be held; or

(3) On application of a member who signed a demand for a special meeting valid under section 52 of this act, a person or persons entitled to call a special meeting, and, in the case of a public benefit corporation, the Attorney General, if:

(i) Notice of the special meeting was not given within thirty days after the date the demand was delivered to a corporate officer; or

(ii) The special meeting was not held in accordance with the notice.

(b) The district court may fix the time and place of the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting (or direct that the votes represented at the meeting constitute a quorum for action on those matters), and enter other orders necessary to accomplish the purpose or purposes of the meeting.

(c) If the district court orders a meeting, it may also order the corporation to pay the member's costs (including reasonable counsel fees) incurred to obtain the order.

Sec. 54. (a) Unless limited or prohibited by the articles or bylaws, action required or permitted by the Nebraska Nonprofit Corporation Act to be approved by the members may be approved without a meeting of members if the action is approved by members holding at least eighty percent of the voting power. The action must be evidenced by one or more written consents describing the action taken, signed by those members representing at least eighty percent of the voting power, and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) If not otherwise determined under section 53 or 57 of this act, the record date for determining members entitled to take action without a meeting is the date the first member signs the consent under subsection (a) of this section.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document filed with the Secretary of State.

(d) Written notice of member approval pursuant to this section shall be given to all members who have not signed the written consent. If written notice is required, member approval pursuant to this section shall be effective ten days after such written notice is given.

Sec. 55. (a) A corporation shall give notice consistent with its bylaws of meetings of members in a fair and reasonable manner.

(b) Any notice that conforms to the requirements of subsection (c) of this section is fair and reasonable, but other means of giving notice may also be fair and reasonable when all the circumstances are considered. Notice of matters referred to in subdivision (c)(2) of this section, however, must be given as provided in subsection (c) of this section.

(c) Notice is fair and reasonable if:

(1) The corporation notifies its members of the place, date, and time of each annual, regular, and special meeting of members no fewer than ten (or if notice is mailed by other than first class or registered mail, thirty) nor more than sixty days before the meeting date;

(2) Notice of an annual or regular meeting includes a description of any matter or matters that must be approved by the members under section 87, 102, 107, 114, 121, 126, 129, or 130 of this act; and

(3) Notice of a special meeting includes a description of the matter or matters for which the meeting is called.

(d) Unless the bylaws require otherwise, if an annual, regular, or

special meeting of members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place, if the new date, time or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under section 57 of this act, however, notice of the adjourned meeting must be given under this section to the members of record as of the new record date.

(e) When giving notice of an annual, regular, or special meeting of members, a corporation shall give notice of a matter a member intends to raise at the meeting if: (1) Requested in writing to do so by a person entitled to call a special meeting; and (2) the request is received by the secretary or president of the corporation at least ten days before the corporation gives notice of the meeting.

Sec. 56. (a) A member may waive any notice required by the Nebraska Nonprofit Corporation Act, the articles, or bylaws before or after the date and time stated in the notice. The waiver must be in writing, be signed by the member entitled to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) A member's attendance at a meeting:

(1) Waives objection to lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting;

(2) Waives objection to consideration of a particular matter at the meeting that is not within the purpose or purposes described in the meeting notice, unless the member objects to considering the matter when it is presented.

Sec. 57. (a) The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to notice of a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If no such record date is fixed, members at the close of business on the business day preceding the day on which notice is given, or if notice is waived, at the close of business on the business day preceding the day on which the meeting is held, are entitled to notice of the meeting.

(b) The bylaws of a corporation may fix or provide the manner of fixing a date as the record date for determining the members entitled to vote at a members' meeting. If the bylaws do not fix or provide for fixing such a record date, the board may fix a future date as such a record date. If no such record date is fixed, members on the date of the meeting who are otherwise eligible to vote are entitled to vote at the meeting.

(c) The bylaws may fix or provide the manner for determining a date as the record date for the purpose of determining the members entitled to exercise any rights in respect of any other lawful action. If the bylaws do not fix or provide for fixing such a record date, the board may fix in advance such a record date. If no such record date is fixed, members at the close of business on the day on which the board adopts the resolution relating thereto, or the sixtieth day prior to the date of such other action, whichever is later, are entitled to exercise such rights.

(d) A record date fixed under this section may not be more than seventy days before the meeting or action requiring a determination of members occurs.

(e) A determination of members entitled to notice of or to vote at a membership meeting is effective for any adjournment of the meeting unless the board fixes a new date for determining the right to notice or the right to vote, which it must do if the meeting is adjourned to a date more than seventy days after the record date for determining members entitled to notice of the original meeting.

(f) If the district court orders a meeting adjourned to a date more than one hundred twenty days after the date fixed for the original meeting, it may provide that the original record date for notice or voting continues in effect or it may fix a new record date for notice or voting.

Sec. 58. (a) Unless prohibited or limited by the articles or bylaws, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the corporation delivers a written ballot to every member entitled to vote on the matter.

(b) A written ballot shall:

(1) Set forth each proposed action; and

(2) Provide an opportunity to vote for or against each proposed action.

(c) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be

required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) All solicitations for votes by written ballot shall:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of approvals necessary to approve each matter other than election of directors; and

(3) Specify the time by which a ballot must be received by the corporation in order to be counted.

(e) Except as otherwise provided in the articles or bylaws, a written ballot may not be revoked.

Sec. 59. (a) After fixing a record date for a notice of a meeting, a corporation shall prepare an alphabetical list of the names of all its members who are entitled to notice of the meeting. The list must show the address and number of votes each member is entitled to vote at the meeting. The corporation shall prepare on a current basis through the time of the membership meeting a list of members, if any, who are entitled to vote at the meeting, but who are not entitled to notice of the meeting. This list shall be prepared on the same basis as and be part of the list of members.

(b) The list of members must be available for inspection by any member for the purpose of communication with other members concerning the meeting, beginning two business days after notice is given of the meeting for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a reasonable place identified in the meeting notice in the city where the meeting will be held. A member, a member's agent, or attorney is entitled on written demand to inspect and, subject to the limitations of subsection (c) of section 166 of this act and section 169 of this act, to copy the list, at a reasonable time and at the member's expense, during the period it is available for inspection.

(c) The corporation shall make the list of members available at the meeting, and any member, a member's agent, or a member's attorney is entitled to inspect the list at any time during the meeting or upon adjournment.

(d) If the corporation refuses to allow a member, a member's agent, or a member's attorney to inspect the list of members before or at the meeting (or copy the list as permitted by subsection (b) of this section), the district court of the county where a corporation's principal office (or if none in this state, its registered office) is located, on application of the member, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete and may order the corporation to pay the member's costs (including reasonable counsel fees) incurred to obtain the order.

(e) Unless a written demand to inspect and copy a membership list has been made under subsection (b) of this section prior to the membership meeting and a corporation improperly refuses to comply with the demand, refusal or failure to comply with this section does not affect the validity of action taken at the meeting.

(f) The articles or bylaws of a religious corporation may limit or abolish the rights of a member under this section to inspect and copy any corporate record.

Sec. 60. (a) Unless the articles or bylaws provide otherwise, each member is entitled to one vote on each matter voted on by the members.

(b) Unless the articles or bylaws provide otherwise, if a membership stands of record in the names of two or more persons, their acts with respect to voting shall have the following effect:

(1) If only one votes, such act binds all; and

(2) If more than one votes, the vote shall be divided on a pro rata basis.

Sec. 61. (a) Unless the Nebraska Nonprofit Corporation Act, the articles, or bylaws provide for a higher or lower quorum, ten percent of the votes entitled to be cast on a matter must be represented at a meeting of members to constitute a quorum on that matter.

(b) A bylaw amendment to decrease the quorum for any member action may be approved by the members or, unless prohibited by the bylaws, by the board.

(c) A bylaw amendment to increase the quorum required for any member action must be approved by the members.

(d) Unless one-third or more of the voting power is present in person or by proxy, the only matters that may be voted upon at an annual or regular meeting of members are those matters that are described in the meeting notice.

Sec. 62. (a) Unless the Nebraska Nonprofit Corporation Act, the

articles, or the bylaws require a greater vote or voting by class, if a quorum is present, the affirmative vote of the votes represented and voting (which affirmative votes also constitute a majority of the required quorum) is the act of the members.

(b) A bylaw amendment to increase or decrease the vote required for any member action must be approved by the members.

Sec. 63. (a) Unless the articles or bylaws prohibit or limit proxy voting, a member may appoint a proxy to vote or otherwise act for the member by signing an appointment form either personally or by an attorney-in-fact.

(b) An appointment of a proxy is effective when received by the secretary or other officer or agent authorized to tabulate votes. An appointment is valid for eleven months unless a different period is expressly provided in the appointment form. No proxy shall be valid for more than three years from its date of execution.

(c) An appointment of a proxy is revocable by the member.

(d) The death or incapacity of the member appointing a proxy does not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

(e) Appointment of a proxy is revoked by the person appointing the proxy:

(1) Attending any meeting and voting in person; or

(2) Signing and delivering to the secretary or other officer or agent authorized to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a subsequent appointment form.

(f) Subject to section 66 of this act and any express limitation on the proxy's authority appearing on the face of the appointment form, a corporation is entitled to accept the proxy's vote or other action as that of the member making the appointment.

Sec. 64. (a) If the articles or bylaws provide for cumulative voting by members, members may so vote, by multiplying the number of votes the members are entitled to cast by the number of directors for whom they are entitled to vote, and cast the product for a single candidate or distribute the product among two or more candidates.

(b) Cumulative voting is not authorized at a particular meeting unless:

(1) The meeting notice or statement accompanying the notice states that cumulative voting will take place; or

(2) A member gives notice during the meeting and before the vote is taken of the member's intent to cumulate votes, and if one member gives this notice all other members participating in the election are entitled to cumulate their votes without giving further notice.

(c) A director elected by cumulative voting may be removed by the members without cause if the requirements of section 75 of this act are met unless the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(d) Members may not cumulatively vote if the directors and members are identical.

Sec. 65. A corporation may provide in its articles or bylaws for the election of directors by members or delegates (1) on the basis of chapter or other organizational unit, (2) by region or other geographic unit, (3) by preferential voting, or (4) by any other reasonable method.

Sec. 66. (a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a member, the corporation, if acting in good faith, is entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member.

(b) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the record name of a member, the corporation, if acting in good faith, is nevertheless entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the member if:

(1) The member is an entity and the name signed purports to be that of an officer or agent of the entity;

(2) The name signed purports to be that of an attorney-in-fact of the member and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the vote, consent, waiver, or proxy appointment;

(3) Two or more persons hold the membership as cotenants or fiduciaries and the name signed purports to be the name of at least one of the coholders and the person signing appears to be acting on behalf of all the coholders; and

(4) In the case of a mutual benefit corporation:

(i) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment; or

(ii) The name signed purports to be that of a receiver or trustee in bankruptcy of the member and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment.

(c) The corporation is entitled to reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

(d) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section are not liable in damages to the member for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section is valid unless a court of competent jurisdiction determines otherwise.

Sec. 67. (a) Two or more members may provide for the manner in which they will vote by signing an agreement for that purpose. Such agreements may be valid for a period of up to ten years. For public benefit corporations such agreements must have a reasonable purpose not inconsistent with the corporation's public or charitable purposes.

(b) A voting agreement created under this section is specifically enforceable.

Sec. 68. (a) Each corporation must have a board of directors.

(b) Except as provided in the Nebraska Nonprofit Corporation Act or subsection (c) of this section, all corporate powers shall be exercised by or under the authority of, and the affairs of the corporation managed under the direction of, its board.

(c) The articles may authorize a person or persons to exercise some or all of the powers which would otherwise be exercised by a board. To the extent so authorized any such person or persons shall have the duties and responsibilities of the directors, and the directors shall be relieved to that extent from such duties and responsibilities.

Sec. 69. All directors must be individuals. The articles or bylaws may prescribe other qualifications for directors.

Sec. 70. (a) A board of directors must consist of three or more individuals, with the number specified in or fixed in accordance with the articles or bylaws.

(b) The number of directors may be increased or decreased (but to no fewer than three) from time to time by amendment to or in the manner prescribed in the articles or bylaws.

Sec. 71. (a) If the corporation has members, all the directors (except the initial directors) shall be elected at the first annual meeting of members, and at each annual meeting thereafter, unless the articles or bylaws provide some other time or method of election or provide that some of the directors are appointed by some other person or designated.

(b) If the corporation does not have members, all the directors (except the initial directors) shall be elected, appointed, or designated as provided in the articles or bylaws. If no method of designation or appointment is set forth in the articles or bylaws, the directors (other than the initial directors) shall be elected by the board.

Sec. 72. (a) The articles or bylaws must specify the terms of directors. Except for designated or appointed directors, the terms of directors may not exceed five years. In the absence of any term specified in the articles or bylaws, the term of each director shall be one year. Directors may be elected for successive terms.

(b) A decrease in the number of directors or term of office does not shorten an incumbent director's term.

(c) Except as provided in the articles or bylaws:

(1) The term of a director filling a vacancy in the office of a director elected by members expires at the next election of directors by members; and

(2) The term of a director filling any other vacancy expires at the end of the unexpired term that such director is filling.

(d) Despite the expiration of a director's term, the director continues to serve until the director's successor is elected, designated, or appointed and qualifies, or until there is a decrease in the number of directors.

Sec. 73. The articles or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups. The terms of office of the several groups need not be uniform.

Sec. 74. (a) A director may resign at any time by delivering written notice to the board of directors, its presiding officer, or to the president or secretary.

(b) A resignation is effective when the notice is effective unless the notice specifies a later effective date. If a resignation is made effective at a later date, the board may fill the pending vacancy before the effective date if the board provides that the successor does not take office until the effective date.

Sec. 75. (a) The members may remove one or more directors elected by them without cause.

(b) If a director is elected by a class, chapter, or other organizational unit or by region or other geographic grouping, the director may be removed only by the members of that class, chapter, unit, or grouping.

(c) Except as provided in subsection (1) of this section, a director may be removed under subsection (a) or (b) of this section only if the number of votes cast to remove the director would be sufficient to elect the director at a meeting to elect directors.

(d) If cumulative voting is authorized, a director may not be removed if the number of votes (or if the director was elected by a class, chapter, unit, or grouping of members, the number of votes of that class, chapter, unit, or grouping) sufficient to elect the director under cumulative voting is voted against the director's removal.

(e) A director elected by members may be removed by the members only at a meeting called for the purpose of removing the director. The meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director.

(f) In computing whether a director is protected from removal under subsections (b) through (d) of this section, it should be assumed that the votes against removal are cast in an election for the number of directors of the class to which the director to be removed belonged on the date of that director's election.

(g) An entire board of directors may be removed under subsections (a) through (e) of this section.

(h) A director elected by the board may be removed without cause by the vote of two-thirds of the directors then in office or such greater number as is set forth in the articles or bylaws. A director elected by the board to fill the vacancy of a director elected by the members may be removed without cause by the members, but not the board.

(i) If, at the beginning of a director's term on the board, the articles or bylaws provide that the director may be removed for missing a specified number of board meetings, the board may remove the director for failing to attend the specified number of meetings. The director may be removed only if a majority of the directors then in office vote for the removal.

(j) The articles or bylaws of a religious corporation may:

(1) Limit the application of this section; and

(2) Set forth the vote and procedures by which the board or any person may remove with or without cause a director elected by the members or the board.

Sec. 76. (a) A designated director may be removed by an amendment to the articles or bylaws deleting or changing the designation.

(b)(1) An appointed director may be removed without cause by the person appointing the director except as otherwise provided in the articles or bylaws:

(2) The person removing the appointed director shall do so by giving written notice of the removal to the appointed director and either the presiding officer of the board or the corporation's president or secretary; and

(3) A removal of an appointed director is effective when the notice is effective unless the notice specifies a future effective date.

Sec. 77. (a) The district court of the county where a corporation's principal office (or, if none in this state, its registered office) is located may remove any director of the corporation from office in a proceeding

commenced either by the corporation, its members holding at least ten percent of the voting power of any class, or the Attorney General in the case of a public benefit corporation, if it finds that (i) the director engaged in fraudulent or dishonest conduct, (ii) the director engaged in a gross abuse of authority or discretion, with respect to the corporation, or (iii) a final judgment has been entered finding that the director has violated a duty set forth in sections 86 to 89 of this act and (2) removal is in the best interest of the corporation.

(b) The district court may bar the removed director from serving on the board for a period prescribed by the court.

(c) If members or the Attorney General commence a proceeding under subsection (a) of this section the corporation shall be made a party defendant.

(d) If a public benefit corporation or its members commence a proceeding under subsection (a) of this section, they shall give the Attorney General written notice of the proceeding.

(e) The articles or bylaws of a religious corporation may limit or prohibit the application of this section.

Sec. 78. (a) Unless the articles or bylaws provide otherwise, and except as provided in subsections (b) and (c) of this section, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(1) The members, if any, may fill the vacancy. If the vacant office was held by a director elected by a class, chapter, or other organizational unit or by region or other geographic grouping, only members of the class, chapter, unit, or grouping are entitled to vote to fill the vacancy if it is filled by the members;

(2) The board of directors may fill the vacancy; or

(3) If the directors remaining in office constitute fewer than a quorum of the board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(b) Unless the articles or bylaws provide otherwise, if a vacant office was held by an appointed director, only the person who appointed the director may fill the vacancy.

(c) If a vacant office was held by a designated director, the vacancy shall be filled as provided in the articles or bylaws. In the absence of an applicable article or bylaw provision, the vacancy may not be filled by the board.

(d) A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date under subsection (b) of section 74 of this act or otherwise) may be filled before the vacancy occurs but the new director may not take office until the vacancy occurs.

Sec. 79. Unless the articles or bylaws provide otherwise, a board of directors may fix the compensation of directors.

Sec. 80. (a) If the time and place of a directors' meeting is fixed by the bylaws or the board, the meeting is a regular meeting. All other meetings are special meetings.

(b) A board of directors may hold regular or special meetings in or out of this state.

(c) Unless the articles or bylaws provide otherwise, members of the board of directors may participate in a regular or special meeting of the board or conduct the meeting through the use of any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

Sec. 81. (a) Unless the articles or bylaws provide otherwise, action required or permitted by the Nebraska Nonprofit Corporation Act to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action must be evidenced by one or more written consents describing the action taken, signed by each director, and included in the minutes filed with the corporate records reflecting the action taken.

(b) Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document.

Sec. 82. (a) Unless the articles, bylaws, or subsection (c) of this section provide otherwise, regular meetings of the board may be held without notice.

(b) Unless the articles, bylaws, or subsection (c) of this section provide otherwise, special meetings of the board must be preceded by at least

two days' notice to each director of the date, time, and place, but not the purpose, of the meeting.

(c) In corporations without members, any board action to remove a director or to approve a matter that would require approval by the members if the corporation had members shall not be valid unless each director is given at least seven days' written notice that the matter will be voted upon at a directors' meeting or unless notice is waived pursuant to section 83 of this act.

(d) Unless the articles or bylaws provide otherwise, the presiding officer of the board, the president, or twenty percent of the directors then in office may call and give notice of a meeting of the board.

Sec. 83. (a) A director may at any time waive any notice required by the Nebraska Nonprofit Corporation Act, the articles, or bylaws. Except as provided in subsection (b) of this section, the waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or the corporate records.

(b) A director's attendance at or participation in a meeting waives any required notice of the meeting unless the director, upon arriving at the meeting or prior to the vote on a matter not noticed in conformity with the act, the articles, or bylaws, objects to lack of notice and does not thereafter vote for or assent to the objected to action.

Sec. 84. (a) Except as otherwise provided in the Nebraska Nonprofit Corporation Act, the articles, or bylaws, a quorum of a board of directors consists of a majority of the directors in office immediately before a meeting begins. In no event may the articles or bylaws authorize a quorum of fewer than the greater of one-third of the number of directors in office or two directors.

(b) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present is the act of the board unless the act, the articles, or bylaws require the vote of a greater number of directors.

Sec. 85. (a) Unless prohibited or limited by the articles or bylaws, a board of directors may create one or more committees of the board and appoint members of the board to serve on them. Each committee shall have two or more directors who serve at the pleasure of the board.

(b) The creation of a committee and appointment of members to it must be approved by the greater of:

(1) A majority of all the directors in office when the action is taken; or

(2) The number of directors required by the articles or bylaws to take action under section 84 of this act.

(c) Sections 80 to 84 of this act, which govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the board, shall apply to committees of the board and their members. Unless the articles or bylaws provide otherwise, members of a committee may participate in a meeting of the committee or conduct the meeting through the use of any means of communication by which all members participating may simultaneously hear each other during the meeting. A member participating in a meeting by this means is deemed to be present at the meeting.

(d) To the extent specified by the board of directors or in the articles or bylaws, each committee of the board may exercise the board's authority under section 68 of this act.

(e) A committee of the board may not:

(1) Authorize distributions;

(2) Approve or recommend to members the dissolution, the merger, or the sale, pledge, or transfer of all or substantially all of the corporation's assets;

(3) Elect, appoint, or remove directors or fill vacancies on the board or on any of its committees; or

(4) Adopt, amend, or repeal the articles or bylaws.

(f) The creation of, delegation of authority to, or action by a committee does not alone constitute compliance by a director with the standards of conduct described in section 86 of this act.

Sec. 86. (a) A director shall discharge his or her duties as a director, including his or her duties as a member of a committee:

(1) In good faith;

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) In a manner he or she reasonably believes to be in the best interests of the corporation.

(b) In discharging his or her duties, a director is entitled to rely

on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the matters presented;

(2) Legal counsel, public accountants, or other persons as to matters the director reasonably believes are within the person's professional or expert competence;

(3) A committee of the board of which the director is not a member as to matters within its jurisdiction if the director reasonably believes the committee merits confidence; or

(4) In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the director believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(c) A director is not acting in good faith if the director has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) of this section unwarranted.

(d) A director is not liable to the corporation, any member, or any other person for any action taken or not taken as a director, if the director acted in compliance with this section.

(e) A director shall not be deemed to be a trustee with respect to the corporation or with respect to any property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of such property.

Sec. 87. (a) A conflict of interest transaction is a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction is not voidable or the basis for imposing liability on the director if the transaction was fair at the time it was entered into or is approved as provided in subsection (b) or (c) of this section.

(b) A transaction in which a director of a public benefit or religious corporation has a conflict of interest may be approved:

(1) In advance by the vote of the board of directors or a committee of the board if:

(i) The material facts of the transaction and the director's interest are disclosed or known to the board or committee of the board; and

(ii) The directors approving the transaction in good faith reasonably believe that the transaction is fair to the corporation; or

(2) Before or after it is consummated by obtaining approval of the:

(i) Attorney General; or

(ii) The district court in an action in which the Attorney General is joined as a party.

(c) A transaction in which a director of a mutual benefit corporation has a conflict of interest may be approved if:

(1) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board and the board or committee of the board authorized, approved, or ratified the transaction; or

(2) The material facts of the transaction and the director's interest were disclosed or known to the members and they authorized, approved, or ratified the transaction.

(d) For purposes of this section, a director of the corporation has an indirect interest in a transaction if (1) another entity in which the director has a material interest or in which the director is a general partner is a party to the transaction or (2) another entity of which the director is a director, officer, or trustee is a party to the transaction.

(e) For purposes of subsections (b) and (c) of this section, a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board or on the committee who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single director. If a majority of the directors on the board who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subdivision (b)(1) or (c)(1) of this section if the transaction is otherwise approved as provided in subsection (b) or (c) of this section.

(f) For purposes of subdivision (c)(2) of this section, a conflict

of interest transaction is authorized, approved, or ratified by the members if it receives a majority of the votes entitled to be counted under this subsection. Votes cast by or voted under the control of a director who has a direct or indirect interest in the transaction and votes cast by or voted under the control of an entity described in subdivision (d)(1) of this section may not be counted in a vote of members to determine whether to authorize, approve, or ratify a conflict of interest transaction under subdivision (c)(2) of this section. The vote of these members, however, is counted in determining whether the transaction is approved under other sections of the Nebraska Nonprofit Corporation Act. A majority of the voting power, whether or not present, that are entitled to be counted in a vote on the transaction under this subsection constitutes a quorum for the purpose of taking action under this section.

(g) The articles, bylaws, or a resolution of the board may impose additional requirements on conflict of interest transactions.

Sec. 88. (a) A corporation may not lend money to or guaranty the obligation of a director or officer of the corporation.

(b) The fact that a loan or guaranty is made in violation of this section does not affect the borrower's liability on the loan.

Sec. 89. (a) Unless a director complies with the applicable standards of conduct described in section 86 of this act, a director who votes for or assents to a distribution made in violation of the Nebraska Nonprofit Corporation Act is personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating the act.

(b) A director held liable for an unlawful distribution under subsection (a) of this section is entitled to contribution:

(1) From every other director who voted for or assented to the distribution without complying with the applicable standards of conduct described in section 86 of this act; and

(2) From each person who received an unlawful distribution for the amount of the distribution whether or not the person receiving the distribution knew it was made in violation of the act.

Sec. 90. (a) Unless otherwise provided in the articles or bylaws, a corporation shall have a president, a secretary, a treasurer, and such other officers as are appointed by the board.

(b) The bylaws or the board shall delegate to one of the officers responsibility for preparing minutes of the directors' and members' meetings and for authenticating records of the corporation.

(c) The same individual may simultaneously hold more than one office in a corporation.

Sec. 91. Each officer has the authority and shall perform the duties set forth in the bylaws or, to the extent consistent with the bylaws, the duties and authority prescribed in a resolution of the board or by direction of an officer authorized by the board to prescribe the duties and authority of other officers.

Sec. 92. (a) An officer with discretionary authority shall discharge his or her duties under that authority:

(1) In good faith;

(2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

(3) In a manner the officer reasonably believes to be in the best interests of the corporation and its members, if any.

(b) In discharging his or her duties an officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) One or more officers or employees of the corporation who the officer reasonably believes to be reliable and competent in the matters presented;

(2) Legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or

(3) In the case of religious corporations, religious authorities and ministers, priests, rabbis, or other persons whose position or duties in the religious organization the officer believes justify reliance and confidence and who the officer believes to be reliable and competent in the matters presented.

(c) An officer is not acting in good faith if the officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (b) of this section unwarranted.

(d) An officer is not liable to the corporation, any member, or other person for any action taken or not taken as an officer, if the officer

acted in compliance with this section.

Sec. 93. (a) An officer may resign at any time by delivering notice to the corporation. A resignation is effective when the notice is effective unless the notice specifies a future effective date. If a resignation is made effective at a future date and the corporation accepts the future effective date, its board of directors may fill the pending vacancy before the effective date if the board provides that the successor does not take office until the effective date.

(b) A board may remove any officer at any time with or without cause.

Sec. 94. (a) The appointment of an officer does not itself create contract rights.

(b) An officer's removal does not affect the officer's contract rights, if any, with the corporation. An officer's resignation does not affect the corporation's contract rights, if any, with the officer.

Sec. 95. Any contract or other instrument in writing executed or entered into between a corporation and any other person is not invalidated as to the corporation by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the contract or other instrument if it is signed by any two officers in Category 1 or by one officer in Category 1 and one officer in Category 2. Category 1 and Category 2 are defined as:

Category 1 - The presiding officer of the board and the president;

Category 2 - A vice president, the secretary, treasurer and executive director.

Sec. 96. For purposes of sections 96 to 104 of this act:

(1) Corporation includes any domestic or foreign predecessor entity of a corporation in a merger or other transaction in which the predecessor's existence ceased upon consummation of the transaction;

(2) Director means an individual who is or was a director of a corporation or an individual who, while a director of a corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise. A director is considered to be serving an employee benefit plan at the corporation's request if the director's duties to the corporation also impose duties on, or otherwise involve services by, the director to the plan or to participants in or beneficiaries of the plan. Director includes, unless the context requires otherwise, the estate or personal representative of a director;

(3) Expenses include counsel fees;

(4) Liability means the obligation to pay a judgment, settlement, penalty, fine (including an excise tax assessed with respect to an employee benefit plan), or reasonable expenses actually incurred with respect to a proceeding;

(5) Official capacity means: (i) When used with respect to a director, the office of director in a corporation; and (ii) when used with respect to an individual other than a director, as contemplated in section 102 of this act, the office in a corporation held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the corporation. Official capacity does not include service for any other foreign or domestic business or nonprofit corporation or any partnership, joint venture, trust, employee benefit plan, or other enterprise;

(6) Party includes an individual who was, is, or is threatened to be made a named defendant or respondent in a proceeding; and

(7) Proceeding means any threatened, pending, or completed action, suit, or proceeding whether civil, criminal, administrative, or investigative and whether formal or informal.

Sec. 97. (a) Except as provided in subsection (d) of this section a corporation may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if the individual:

(1) Conducted himself or herself in good faith; and

(2) Reasonably believed:

(i) In the case of conduct in his or her official capacity with the corporation, that his or her conduct was in its best interests; and

(ii) In all other cases, that his or her conduct was at least not opposed to its best interests; and

(3) In the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful.

(b) A director's conduct with respect to an employee benefit plan

for a purpose the director reasonably believed to be in the best interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirements of subdivision (a)(2)(i) of this section.

(c) The termination of a proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

(d) A corporation may not indemnify a director under this section:

(1) In connection with a proceeding by or in the right of the corporation in which the director was adjudged liable to the corporation; or

(2) In connection with any other proceeding charging improper personal benefit to the director, whether or not involving action in his or her official capacity, in which the director was adjudged liable on the basis that personal benefit was improperly received by the director.

(e) Indemnification permitted under this section in connection with a proceeding by or in the right of the corporation is limited to reasonable expenses incurred in connection with the proceeding.

Sec. 98. Unless limited by its articles of incorporation, a corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because he or she is or was a director of the corporation against reasonable expenses actually incurred by the director in connection with the proceeding.

Sec. 99. (a) A corporation may pay for or reimburse the reasonable expenses incurred by a director who is a party to a proceeding in advance of final disposition of the proceeding if:

(1) The director furnishes the corporation a written affirmation of his or her good faith belief that he or she has met the standard of conduct described in section 97 of this act;

(2) The director furnishes the corporation a written undertaking, executed personally or on the director's behalf, to repay the advance if it is ultimately determined that the director did not meet the standard of conduct; and

(3) A determination is made that the facts then known to those making the determination would not preclude indemnification under sections 96 to 104 of this act.

(b) The undertaking required by subdivision (a)(2) of this section must be an unlimited general obligation of the director but need not be secured and may be accepted without reference to financial ability to make repayment.

(c) Determinations and authorizations of payments under this section shall be made in the manner specified in section 101 of this act.

Sec. 100. Unless limited by a corporation's articles of incorporation, a director of the corporation who is a party to a proceeding may apply for indemnification to the court conducting the proceeding or to another court of competent jurisdiction. On receipt of an application, the district court, after giving any notice it considers necessary, may order indemnification in the amount it considers proper if it determines:

(1) The director is entitled to mandatory indemnification under section 98 of this act, in which case the district court shall also order the corporation to pay the director's reasonable expenses incurred to obtain court-ordered indemnification; or

(2) The director is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the director met the standard of conduct set forth in subsection (a) of section 97 of this act or was adjudged liable as described in subsection (d) of section 97 of this act, but if the director was adjudged so liable indemnification is limited to reasonable expenses incurred.

Sec. 101. (a) A corporation may not indemnify a director under section 97 of this act unless authorized in the specific case after a determination has been made that indemnification of the director is permissible in the circumstances because the director has met the standard of conduct set forth in section 97 of this act.

(b) The determination shall be made:

(1) By the board of directors by majority vote of a quorum consisting of directors not at the time parties to the proceeding;

(2) If a quorum cannot be obtained under subdivision (1) of this section by majority vote of a committee duly designated by the board of directors (in which designation directors who are parties may participate) consisting solely of two or more directors not at the time parties to the proceeding;

(3) By special legal counsel;

(i) Selected by the board of directors or its committee in the manner prescribed in subdivision (1) or (2) of this subsection; or

(ii) If a quorum of the board cannot be obtained under subdivision (1) of this subsection and a committee cannot be designated under subdivision (2) of this subsection, selected by majority vote of the full board (in which selection directors who are parties may participate); or

(4) By the members of a mutual benefit corporation, but directors who are at the time parties to the proceeding may not vote on the determination.

(c) Authorization of indemnification and evaluation as to reasonableness of expenses shall be made in the same manner as the determination that indemnification is permissible, except that if the determination is made by special legal counsel, authorization of indemnification and evaluation as to reasonableness of expenses shall be made by those entitled under subdivision (b)(3) of this section to select counsel.

(d) A director of a public benefit corporation may not be indemnified until twenty days after the effective date of written notice to the Attorney General of the proposed indemnification.

Sec. 102. Unless limited by a corporation's articles of incorporation:

(1) An officer of a corporation who is not a director is entitled to mandatory indemnification under section 98 of this act, and is entitled to apply for court-ordered indemnification under section 100 of this act in each case, to the same extent as a director.

(2) The corporation may indemnify and advance expenses under sections 96 to 104 of this act to an officer, employee, or agent of the corporation who is not a director to the same extent as to a director; and

(3) A corporation may also indemnify and advance expenses to an officer, employee, or agent who is not a director to the extent, consistent with public policy, that may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract.

Sec. 103. A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation or who, while a director, officer, employee, or agent of the corporation, is or was serving at the request of the corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic business or nonprofit corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as a director, officer, employee, or agent, whether or not the corporation would have power to indemnify the person against the same liability under section 97 or 98 of this act.

Sec. 104. (a) A provision treating a corporation's indemnification of or advance for expenses to directors that is contained in its articles of incorporation, bylaws, a resolution of its members or board of directors, or in a contract or otherwise, is valid only if and to the extent the provision is consistent with the provisions of sections 96 to 104 of this act. If articles of incorporation limit indemnification or advance for expenses, indemnification and advance for expenses are valid only to the extent consistent with the articles.

(b) Sections 96 to 104 of this act do not limit a corporation's power to pay or reimburse expenses incurred by a director in connection with appearing as a witness in a proceeding at a time when the director has not been made a named defendant or respondent to the proceeding.

Sec. 105. A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles or to delete a provision not required in the articles. Whether a provision is required or permitted in the articles is determined as of the effective date of the amendment.

Sec. 106. (a) Unless the articles provide otherwise, a corporation's board of directors may adopt one or more amendments to the corporation's articles without member approval:

(1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) To delete the names and addresses of the initial directors;

(3) To delete the name and address of the initial registered agent or registered office, if a statement of change is on file with the Secretary of State;

(4) To change the corporate name by substituting the word "corporation," "incorporated," "company," "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd." for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution to the

name; or

(5) To make any other change expressly permitted by the Nebraska Nonprofit Corporation Act to be made by director action.

(b) If a corporation has no members, its incorporators, until directors have been chosen, and thereafter its board of directors, may adopt one or more amendments to the corporation's articles subject to any approval required pursuant to section 116 of this act. The corporation shall provide notice of any meeting at which an amendment is to be voted upon. The notice shall be in accordance with subsection (c) of section 82 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the articles and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the directors in office at the time the amendment is adopted.

Sec. 107. (a) Unless the Nebraska Nonprofit Corporation Act, the articles, bylaws, the members (acting pursuant to subsection (b) of this section), or the board of directors (acting pursuant to subsection (c) of this section) require a greater vote or voting by class, an amendment to a corporation's articles to be adopted must be approved:

(1) By the board if the corporation is a public benefit or religious corporation and the amendment does not relate to the number of directors, the composition of the board, the term of office of directors, or the method or way in which directors are elected or selected;

(2) Except as provided in subsection (a) of section 106 of this act, by the members by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(3) In writing by any person or persons whose approval is required by a provision of the articles authorized by section 116 of this act.

(b) The members may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

(c) If the board initiates an amendment to the articles or board approval is required by subsection (a) of this section to adopt an amendment to the articles, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or any other basis.

(d) If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with section 55 of this act. The notice must state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(e) If the board or the members seek to have the amendment approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the amendment.

Sec. 108. (a) The members of a class in a public benefit corporation are entitled to vote as a class on a proposed amendment to the articles if the amendment would change the rights of that class as to voting in a manner different than such amendment affects another class or members of another class.

(b) The members of a class in a mutual benefit corporation are entitled to vote as a class on a proposed amendment to the articles if the amendment would:

(1) Affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer of memberships in a manner different than such amendment would affect another class;

(2) Change the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class.

(3) Increase or decrease the number of memberships authorized for that class;

(4) Increase the number of memberships authorized for another class;

(5) Effect an exchange, reclassification, or termination of the memberships of that class; or

(6) Authorize a new class of memberships.

(c) The members of a class of a religious corporation are entitled to vote as a class on a proposed amendment to the articles only if a class vote is provided for in the articles or bylaws.

(d) If a class is to be divided into two or more classes as a result of an amendment to the articles of a public benefit or mutual benefit corporation, the amendment must be approved by the members of each class that

would be created by the amendment.

(e) Except as provided in the articles or bylaws of a religious corporation, if a class vote is required to approve an amendment to the articles of a corporation, the amendment must be approved by the members of the class by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

(f) A class of members of a public benefit or mutual benefit corporation is entitled to the voting rights granted by this section although the articles and bylaws provide that the class may not vote on the proposed amendment.

Sec. 109. A corporation amending its articles shall deliver to the Secretary of State articles of amendment setting forth:

- (1) The name of the corporation;
- (2) The text of each amendment adopted;
- (3) The date of each amendment's adoption;

(4) If approval of members was not required, a statement to that effect and a statement that the amendment was approved by a sufficient vote of the board of directors or incorporators;

- (5) If approval by members was required:

(i) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the amendment, and number of votes of each class indisputably voting on the amendment; and

(ii) Either the total number of votes cast for and against the amendment by each class entitled to vote separately on the amendment or the total number of undisputed votes cast for the amendment by each class and a statement that the number cast for the amendment by each class was sufficient for approval by that class; and

(6) If approval of the amendment by some person or persons other than the members, the board, or the incorporators is required pursuant to section 116 of this act, a statement that the approval was obtained.

Sec. 110. (a) A corporation's board of directors may restate its articles of incorporation at any time with or without approval by members or any other person.

(b) The restatement may include one or more amendments to the articles. If the restatement includes an amendment requiring approval by the members or any other person, it must be adopted as provided in section 107 of this act.

(c) If the restatement includes an amendment requiring approval by members, the board must submit the restatement to the members for their approval.

(d) If the board seeks to have the restatement approved by the members at a membership meeting, the corporation shall notify each of its members of the proposed membership meeting in writing in accordance with section 55 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed restatement and contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles.

(e) If the board seeks to have the restatement approved by the members by written ballot or written consent, the material soliciting the approval shall contain or be accompanied by a copy or summary of the restatement that identifies any amendments or other change it would make in the articles.

(f) A restatement requiring approval by the members must be approved by the same vote as an amendment to articles under section 107 of this act.

(g) If the restatement includes an amendment requiring approval pursuant to section 116 of this act, the board must submit the restatement for such approval.

(h) A corporation restating its articles shall deliver to the Secretary of State articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation together with a certificate setting forth:

(1) Whether the restatement contains an amendment to the articles requiring approval by the members or any other person other than the board of directors and, if it does not, that the board of directors adopted the restatement; or

(2) If the restatement contains an amendment to the articles requiring approval by the members, the information required by section 109 of this act; and

(3) If the restatement contains an amendment to the articles requiring approval by a person whose approval is required pursuant to section 116 of this act, a statement that such approval was obtained.

(1) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments to them.

(1) The Secretary of State may certify restated articles of incorporation as the articles of incorporation currently in effect without including the certificate information required by subsection (h) of this section.

Sec. 111. (a) A corporation's articles may be amended without board approval or approval by the members or approval required pursuant to section 116 of this act to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under federal statute if the articles after amendment contain only provisions required or permitted by section 21 of this act.

(b) The individual or individuals designated by the court shall deliver to the Secretary of State articles of amendment setting forth:

(1) The name of the corporation;

(2) The text of each amendment approved by the court;

(3) The date of the court's order or decree approving the articles of amendment;

(4) The title of the reorganization proceeding in which the order or decree was entered; and

(5) A statement that the court had jurisdiction of the proceeding under federal statute.

(c) This section does not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

Sec. 112. An amendment to articles of incorporation does not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, any requirement or limitation imposed upon the corporation, or any property held by it by virtue of any trust upon which such property is held by the corporation, or the existing rights of persons other than members of the corporation. An amendment changing a corporation's name does not abate a proceeding brought by or against the corporation in its former name.

Sec. 113. If a corporation has no members, its incorporators, until directors have been chosen, and thereafter its board of directors, may adopt one or more amendments to the corporation's bylaws subject to any approval required pursuant to section 116 of this act. The corporation shall provide notice of any meeting of directors at which an amendment is to be approved. The notice shall be in accordance with subsection (c) of section 82 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider a proposed amendment to the bylaws and contain or be accompanied by a copy or summary of the amendment or state the general nature of the amendment. The amendment must be approved by a majority of the directors in office at the time the amendment is adopted.

Sec. 114. (a) Unless the Nebraska Nonprofit Corporation Act, the articles, bylaws, the members (acting pursuant to subsection (b) of this section), or the board of directors (acting pursuant to subsection (c) of this section) require a greater vote or voting class, an amendment to a corporation's bylaws to be adopted must be approved:

(1) By the board if the corporation is a public benefit or religious corporation and the amendment does not relate to the number of directors, the composition of the board, the term of office of the directors, or the method or way in which directors are elected or selected;

(2) By the members by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(3) In writing by any person or persons whose approval is required by a provision of the articles authorized by section 116 of this act.

(b) The members may condition the amendment's adoption on its receipt of a higher percentage of affirmative votes or on any other basis.

(c) If the board initiates an amendment to the bylaws or board approval is required by subsection (a) of this section to adopt an amendment to the bylaws, the board may condition the amendment's adoption on receipt of a higher percentage of affirmative votes or on any other basis.

(d) If the board or the members seek to have the amendment approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in writing in accordance with section 55 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed amendment and contain or be accompanied by a copy or summary of the amendment.

(e) If the board or the members seek to have the amendment approved by the members by written consent or written ballot, the material soliciting

the approval shall contain or be accompanied by a copy or summary of the amendment.

Sec. 115. (a) The members of a class in a public benefit corporation are entitled to vote as a class on a proposed amendment to the bylaws if the amendment would change the rights of that class as to voting in a manner different than such amendment affects another class or members of another class.

(b) The members of a class in a mutual benefit corporation are entitled to vote as a class on a proposed amendment to the bylaws if the amendment would:

(1) Affect the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer of memberships in a manner different than such amendment would affect another class;

(2) Change the rights, privileges, preferences, restrictions, or conditions of that class as to voting, dissolution, redemption, or transfer by changing the rights, privileges, preferences, restrictions, or conditions of another class;

(3) Increase or decrease the number of memberships authorized for that class;

(4) Increase the number of memberships authorized for another class;

(5) Effect an exchange, reclassification, or termination of all or part of the memberships of that class; or

(6) Authorize a new class of memberships.

(c) The members of a class of a religious corporation are entitled to vote as a class on a proposed amendment to the bylaws only if a class vote is provided for in the articles or bylaws.

(d) If a class is to be divided into two or more classes as a result of an amendment to the bylaws, the amendment must be approved by the members of each class that would be created by the amendment; and

(e) If a class vote is required to approve an amendment to the bylaws, the amendment must be approved by the members of the class by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

(f) A class of members is entitled to the voting rights granted by this section although the articles and bylaws provide that the class may not vote on the proposed amendment.

Sec. 116. The articles may require an amendment to the articles or bylaws to be approved in writing by a specified person or persons other than the board. Such an article provision may only be amended with the approval in writing of such person or persons.

Sec. 117. (a) Any amendment to the articles or bylaws of a public benefit or mutual benefit corporation that would terminate all members or any class of members or redeem or cancel all memberships or any class of memberships must meet the requirements of the Nebraska Nonprofit Corporation Act and this section.

(b) Before adopting a resolution proposing such an amendment, the board of a mutual benefit corporation shall give notice of the general nature of the amendment to the members.

(c) After adopting a resolution proposing such an amendment, the notice to members proposing such amendment shall include one statement of up to five hundred words opposing the proposed amendment if such statement is submitted by any five members or members having three percent or more of the voting power, whichever is less, not later than twenty days after the board has voted to submit such amendment to the members for their approval. In public benefit corporations the production and mailing costs shall be paid by the requesting members. In mutual benefit corporations the production and mailing costs shall be paid by the corporation.

(d) Any such amendment shall be approved by the members by two-thirds of the votes cast by each class.

(e) The provisions of section 47 of this act shall not apply to any amendment meeting the requirements of the act and this section.

Sec. 118. (a) Subject to the limitations set forth in section 119 of this act, one or more nonprofit corporations may merge into a business or nonprofit corporation, if the plan of merger is approved as provided in section 120 of this act.

(b) The plan of merger must set forth:

(1) The name of each corporation planning to merge and the name of the surviving corporation into which each plans to merge;

(2) The terms and conditions of the planned merger;

(3) The manner and basis, if any, of converting the memberships of each public benefit or religious corporation into memberships of the surviving

corporation; and

(4) If the merger involves a mutual benefit corporation, the manner and basis, if any, of converting memberships of each merging corporation into memberships, obligations, or securities of the surviving or any other corporation or into cash or other property in whole or in part.

(c) The plan of merger may set forth:

(1) Any amendments to the articles of incorporation or bylaws of the surviving corporation to be effected by the planned merger; and

(2) Other provisions relating to the planned merger.

Sec. 119. (a) Without the prior approval of the district court in a proceeding in which the Attorney General has been given written notice, a public benefit or religious corporation may merge only with:

(1) A public benefit or religious corporation;

(2) A foreign corporation that would qualify under the Nebraska Nonprofit Corporation Act as a public benefit or religious corporation;

(3) A wholly-owned foreign or domestic business or mutual benefit corporation, provided the public benefit or religious corporation is the surviving corporation and continues to be a public benefit or religious corporation after the merger; or

(4) A business or mutual benefit corporation, if: (i) On or prior to the effective date of the merger, assets with a value equal to the greater of the fair market value of the net tangible and intangible assets (including goodwill) of the public benefit corporation or the fair market value of the public benefit corporation if it were to be operated as a business concern, are transferred or conveyed to one or more persons who would have received its assets under subdivisions (a)(5) and (6) of section 134 of this act had it dissolved; (ii) it shall return, transfer, or convey any assets held by it upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the merger, in accordance with such condition; and (iii) the merger is approved by a majority of directors of the public benefit or religious corporation who are not and will not become members or shareholders in or officers, employees, agents, or consultants of the surviving corporation.

(b) At least twenty days before consummation of any merger of a public benefit corporation or a religious corporation pursuant to subdivision (a)(4) of this section, notice, including a copy of the proposed plan of merger, must be delivered to the Attorney General.

(c) Without the prior written consent of the Attorney General or of the district court in a proceeding in which the Attorney General has been given notice, no member of a public benefit or religious corporation may receive or keep anything as a result of a merger other than a membership or membership in the surviving public benefit or religious corporation. The district court shall approve the transaction if it is in the public interest.

Sec. 120. (a) Unless the Nebraska Nonprofit Corporation Act, the articles, the bylaws, or the board of directors or members (acting pursuant to subsection (c) of this section) require a greater vote or voting by class, a plan of merger to be adopted must be approved;

(1) By the board;

(2) By the members, if any, by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(3) In writing by any person or persons whose approval is required by a provision of the articles authorized by section 116 of this act for an amendment to the articles or bylaws.

(b) If the corporation does not have members, the merger must be approved by a majority of the directors in office at the time the merger is approved. In addition the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with subsection (c) of section 82 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the proposed merger.

(c) The board may condition its submission of the proposed merger, and the members may condition their approval of the merger, on receipt of a higher percentage of affirmative votes or on any other basis.

(d) If the board seeks to have the plan approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with section 55 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger and contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provision that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the merging corporation shall include a copy or summary of the articles and

bylaws that will be in effect immediately after the merger takes effect.

(e) If the board seeks to have the plan approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan. The copy or summary of the plan for members of the surviving corporation shall include any provisions that, if contained in a proposed amendment to the articles of incorporation or bylaws, would entitle members to vote on the provision. The copy or summary of the plan for members of the disappearing corporation shall include a copy or summary of the articles and bylaws that will be in effect immediately after the merger takes effect.

(f) Voting by a class of members is required on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation or bylaws, would entitle the class of members to vote as a class on the proposed amendment under section 108 or 115 of this act. The plan is approved by a class of members by two-thirds of the votes cast by the class or a majority of the voting power of the class, whichever is less.

(g) After a merger is adopted, and at any time before articles of merger are filed, the planned merger may be abandoned (subject to any contractual rights) without further action by members or other persons who approved the plan in accordance with the procedure set forth in the plan of merger or, if none is set forth, in the manner determined by the board of directors.

Sec. 121. After a plan of merger is approved by the board of directors, and if required by section 120 of this act, by the members and any other persons, the surviving corporation shall deliver to the Secretary of State articles of merger setting forth:

(1) The plan of merger;

(2) If approval by the members was not required, a statement to that effect and a statement that the plan was approved by a sufficient vote of the board of directors;

(3) If approval by members was required:

(i) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on the plan, and number of votes of each class indisputably voting on the plan; and

(ii) Either the total number of votes cast for and against the plan by each class entitled to vote separately on the plan or the total number of undisputed votes cast for the plan by each class and a statement that the number cast for the plan by each class was sufficient for approval by that class;

(4) If approval of the plan by some person or persons other than the members or the board is required pursuant to subdivision (a)(3) of section 120 of this act, a statement that the approval was obtained.

Sec. 122. When a merger takes effect:

(1) Every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases;

(2) The title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment subject to any and all conditions to which the property was subject prior to the merger;

(3) The surviving corporation has all liabilities and obligations of each corporation party to the merger;

(4) A proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased; and

(5) The articles of incorporation and bylaws of the surviving corporation are amended to the extent provided in the plan of merger.

Sec. 123. (a) Except as provided in section 119 of this act, one or more foreign business or nonprofit corporations may merge with one or more domestic nonprofit corporations if:

(1) The merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;

(2) The foreign corporation complies with section 121 of this act if it is the surviving corporation of the merger; and

(3) Each domestic nonprofit corporation complies with the provisions of sections 118 to 120 of this act and, if it is the surviving corporation of the merger, with section 121 of this act.

(b) Upon the merger taking effect, the surviving foreign business or nonprofit corporation is deemed to agree that it may be served with process

within or without this state in any proceeding in the courts of this state brought against it.

Sec. 124. Any bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a constituent corporation and that takes effect or remains payable after the merger, inures to the surviving corporation unless the will or other instrument otherwise specifically provides.

Sec. 125. (a) A corporation may on the terms and conditions and for the consideration determined by the board of directors:

(1) Sell, lease, exchange, or otherwise dispose of all or substantially all of its property in the usual and regular course of its activities; or

(2) Mortgage, pledge, dedicate to the repayment of indebtedness (whether with or without recourse), or otherwise encumber any or all of its property whether or not in the usual and regular course of its activities.

(b) Unless the articles require it, approval of the members or any other person of a transaction described in subsection (a) of this section is not required.

Sec. 126. (a) A corporation may sell, lease, exchange, or otherwise dispose of all or substantially all of its property (with or without the goodwill) other than in the usual and regular course of its activities on the terms and conditions and for the consideration determined by the corporation's board if the proposed transaction is authorized by subsection (b) of this section.

(b) Unless the Nebraska Nonprofit Corporation Act, the articles, or bylaws or the board of directors or members (acting pursuant to subsection (d) of this section) require a greater vote or voting by class, the proposed transaction to be authorized must be approved:

(1) By the board;

(2) By the members by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(3) In writing by any person or persons whose approval is required by a provision of the articles authorized by section 116 of this act for an amendment to the articles or bylaws.

(c) If the corporation does not have members the transaction must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with subsection (c) of section 82 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all or substantially all of the property or assets of the corporation and contain or be accompanied by a copy or summary of a description of the transaction.

(d) The board may condition its submission of the proposed transaction and the members may condition their approval of the transaction on receipt of a higher percentage of affirmative votes or on any other basis.

(e) If the corporation seeks to have the transaction approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with section 55 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the sale, lease, exchange, or other disposition of all or substantially all of the property or assets of the corporation and contain or be accompanied by a copy or summary of a description of the transaction.

(f) If the board needs to have the transaction approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of a description of the transaction.

(g) A public benefit or religious corporation must give written notice to the Attorney General twenty days before it sells, leases, exchanges, or otherwise disposes of all or substantially all of its property if the transaction is not in the usual and regular course of its activities unless the Attorney General has given the corporation a written waiver of this subsection.

(h) After a sale, lease, exchange, or other disposition of property is authorized, the transaction may be abandoned (subject to any contractual rights) without further action by the members or any other person who approved the transaction in accordance with the procedure set forth in the resolution proposing the transaction or, if none is set forth, in the manner determined by the board of directors.

Sec. 127. Except as authorized by section 128 of this act, a corporation shall not make any distributions.

Sec. 128. (a) A mutual benefit corporation may purchase its memberships if after the purchase is completed.

(1) The corporation would be able to pay its debts as they become due in the usual course of its activities; and

(2) The corporation's total assets would at least equal the sum of its total liabilities.

(b) Corporations may make distributions upon dissolution in conformity with sections 129 to 145 of this act.

Sec. 129. (a) A majority of the incorporators or directors of a corporation that has no members may, subject to any approval required by the articles or bylaws, dissolve the corporation by delivering to the Secretary of State articles of dissolution.

(b) The corporation shall give notice of any meeting at which dissolution will be approved. The notice shall be in accordance with subsection (c) of section 82 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation.

(c) The incorporators or directors in approving dissolution shall adopt a plan of dissolution indicating to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

Sec. 130. (a) Unless the Nebraska Nonprofit Corporation Act, the articles, or bylaws or the board of directors or members (acting pursuant to subsection (c) of this section) require a greater vote or voting by class, dissolution is authorized if it is approved:

(1) By the board;

(2) By the members, if any, by two-thirds of the votes cast or a majority of the voting power, whichever is less; and

(3) In writing by any person or persons whose approval is required by a provision of the articles authorized by section 116 of this act for an amendment to the articles or bylaws.

(b) If the corporation does not have members, dissolution must be approved by a vote of a majority of the directors in office at the time the transaction is approved. In addition, the corporation shall provide notice of any directors' meeting at which such approval is to be obtained in accordance with subsection (c) of section 82 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolution of the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(c) The board may condition its submission of the proposed dissolution, and the members may condition their approval of the dissolution, on receipt of a higher percentage of affirmative votes or on any other basis.

(d) If the board seeks to have dissolution approved by the members at a membership meeting, the corporation shall give notice to its members of the proposed membership meeting in accordance with section 55 of this act. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation and contain or be accompanied by a copy or summary of the plan of dissolution.

(e) If the board seeks to have dissolution approved by the members by written consent or written ballot, the material soliciting the approval shall contain or be accompanied by a copy or summary of the plan of dissolution.

(f) The plan of dissolution shall indicate to whom the assets owned or held by the corporation will be distributed after all creditors have been paid.

Sec. 131. (a) A public benefit or religious corporation shall give the Attorney General written notice that it intends to dissolve at or before the time it delivers articles of dissolution to the Secretary of State. The notice shall include a copy or summary of the plan of dissolution.

(b) No assets shall be transferred or conveyed by a public benefit or religious corporation as part of the dissolution process until twenty days after it has given the written notice required by subsection (a) of this section to the Attorney General or until the Attorney General has consented in writing to the dissolution or indicated in writing that he or she will take no action with respect to the transfer or conveyance, whichever is earlier.

(c) When all or substantially all of the assets of a public benefit corporation have been transferred or conveyed following approval of dissolution, the board shall deliver to the Attorney General a list showing those (other than creditors) to whom the assets were transferred or conveyed. The list shall indicate the addresses of each person (other than creditors) who received assets and indicate what assets each received.

Sec. 132. (a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the Secretary of State articles of

dissolution setting forth:

- (1) The name of the corporation;
- (2) The date dissolution was authorized;
- (3) A statement that dissolution was approved by a sufficient vote

of the board;

(4) If approval of members was not required, a statement to that effect and a statement that dissolution was approved by a sufficient vote of the board of directors or incorporators;

(5) If approval by members was required;

(i) The designation, number of memberships outstanding, number of votes entitled to be cast by each class entitled to vote separately on dissolution, and number of votes of each class indisputably voting on dissolution; and

(ii) Either the total number of votes cast for and against dissolution by each class entitled to vote separately on dissolution or the total number of undisputed votes cast for dissolution by each class and a statement that the number cast for dissolution by each class was sufficient for approval by that class;

(6) If approval of dissolution by some person or persons other than the members, the board, or the incorporators is required pursuant to subdivision (a)(3) of section 130 of this act, a statement that the approval was obtained; and

(7) If the corporation is a public benefit or religious corporation, that the notice to the Attorney General required by subsection (a) of section 131 of this act has been given.

(b) A corporation is dissolved upon the effective date of its articles of dissolution.

Sec. 133. (a) A corporation may revoke its dissolution within one hundred twenty days after its effective date.

(b) Revocation of dissolution must be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without action by the members or any other person.

(c) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the Secretary of State for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

- (1) The name of the corporation;
- (2) The effective date of the dissolution that was revoked;
- (3) The date that the revocation of dissolution was authorized;
- (4) If the corporation's board of directors (or incorporators) revoked the dissolution, a statement to that effect;

(5) If the corporation's board of directors revoked a dissolution authorized by the members alone or in conjunction with another person or persons, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and

(6) If member or third person action was required to revoke the dissolution, the information required by subdivisions (a)(5) and (6) of section 132 of this act.

(d) Revocation of dissolution is effective upon the effective date of the articles of revocation of dissolution.

(e) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its activities as if dissolution had never occurred.

Sec. 134. (a) A dissolved corporation continues its corporate existence but may not carry on any activities except those appropriate to wind up and liquidate its affairs, including:

(1) Preserving and protecting its assets and minimizing its liabilities;

(2) Discharging or making provision for discharging its liabilities and obligations;

(3) Disposing of its properties that will not be distributed in kind;

(4) Returning, transferring, or conveying assets held by the corporation upon a condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, in accordance with such condition;

(5) Transferring, subject to any contractual or legal requirements, its assets as provided in or authorized by its articles of incorporation or bylaws;

(6) If the corporation is a public benefit or religious corporation and no provision has been made in its articles or bylaws for the distribution of assets on dissolution, transferring, subject to any contractual or legal requirement, its assets: (i) To one or more persons described in section 501(c)(3) of the Internal Revenue Code engaged in activities substantially similar to those of the dissolved corporation; or (ii) if the dissolved corporation is not described in section 501(c)(3) of the Internal Revenue Code, to one or more public benefit or religious corporations;

(7) If the corporation is a mutual benefit corporation and no provision has been made in its articles or bylaws for distribution of assets on dissolution, transferring its assets to its members or, if it has no members, to those persons to whom the corporation holds itself out as benefitting or serving; and

(8) Doing every other act necessary to wind up and liquidate its assets and affairs.

(b) Dissolution of a corporation does not:

(1) Transfer title of the corporation's property;

(2) Subject its directors or officers to standards of conduct different from those prescribed in sections 68 to 104 of this act;

(3) Change quorum or voting requirements for its board or members, change provisions for selection, resignation, or removal of its directors or officers or both, or change provisions for amending its bylaws;

(4) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(5) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(6) Terminate the authority of the registered agent.

Sec. 135. (a) A dissolved corporation may dispose of the known claims against it by following the procedure described in this section.

(b) The dissolved corporation shall notify its known claimants in writing of the dissolution at any time after its effective date. The written notice must:

(1) Describe information that must be included in a claim;

(2) Provide a mailing address where a claim may be sent;

(3) State the deadline, which may not be fewer than one hundred twenty days from the effective date of the written notice, by which the dissolved corporation must receive the claim; and

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the dissolved corporation is barred:

(1) If a claimant who was given written notice under subsection (b) of this section does not deliver the claim to the dissolved corporation by the deadline;

(2) If a claimant whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within ninety days from the effective date of the rejection notice.

(d) For purposes of this section, claim does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

Sec. 136. (a) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the corporation present them in accordance with the notice.

(b) The notice must:

(1) Be published one time in a newspaper of general circulation in the county where the dissolved corporation's principal office (or, if none in this state, its registered office) is or was last located;

(2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(3) State that a claim against the corporation will be barred unless a proceeding to enforce the claim is commenced within five years after publication of the notice.

(c) If the dissolved corporation publishes a newspaper notice in accordance with subsection (b) of this section, the claim of each of the following claimants is barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within five years after the publication date of the newspaper notice:

(1) A claimant who did not receive written notice under section 135 of this act;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on; and

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim may be enforced under this section:

(1) Against the dissolved corporation, to the extent of its undistributed assets; or

(2) If the assets have been distributed in liquidation, against any person, other than a creditor of the corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to such person in liquidation, whichever is less, but the distributee's total liability for all claims under this section may not exceed the total amount of assets distributed to the distributee.

Sec. 137. The Secretary of State may commence a proceeding under section 138 of this act to administratively dissolve a corporation if:

(1) The corporation does not pay any fees, taxes, or penalties imposed by the Nebraska Nonprofit Corporation Act or other law when they are due;

(2) The corporation does not deliver its biennial report to the Secretary of State when it is due;

(3) The corporation is without a registered agent or registered office in this state for sixty days or more;

(4) The corporation does not notify the Secretary of State that its registered agent or registered office has been changed, that its registered agent has resigned, or that its registered office has been discontinued within one hundred twenty days; or

(5) The corporation's period of duration, if any, stated in its articles of incorporation expires.

Sec. 138. (a) Upon determining that one or more grounds exist under section 137 of this act for dissolving a corporation, the Secretary of State shall serve the corporation with written notice of that determination under section 37 of this act, and in the case of a public benefit corporation shall notify the Attorney General in writing.

(b) If the corporation does not, within sixty days after service of the notice is perfected under section 37 of this act, correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist, the Secretary of State may administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the corporation under section 37 of this act and in the case of a public benefit corporation shall notify the Attorney General in writing.

(c) A corporation administratively dissolved continues its corporate existence but may not carry on any activities except those necessary to wind up and liquidate its affairs under section 134 of this act and notify its claimants under sections 135 and 136 of this act.

(d) The administrative dissolution of a corporation does not terminate the authority of its registered agent.

Sec. 139. (a) A corporation administratively dissolved under section 138 of this act may apply to the Secretary of State for reinstatement. The application must:

(1) Recite the name of the corporation and the effective date of its administrative dissolution;

(2) State that the ground or grounds for dissolution either did not exist or have been eliminated; and

(3) State that the corporation's name satisfies the requirements of section 31 of this act.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, the Secretary of State shall cancel the certificate of dissolution and prepare a certificate of reinstatement reciting that determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation under section 37 of this act.

(c) When reinstatement is effective, it relates back to and takes effect as of the effective date of the administrative dissolution and the corporation shall resume carrying on its activities as if the administrative dissolution had never occurred.

Sec. 140. (a) The Secretary of State, upon denying a corporation's application for reinstatement following administrative dissolution, shall serve the corporation under section 37 of this act with a written notice that explains the reason or reasons for denial.

(b) The corporation may appeal the denial of reinstatement to the district court of Lancaster County within ninety days after service of the

notice of denial is perfected. The corporation appeals by petitioning the district court to set aside the dissolution and attaching to the petition copies of the Secretary of State's certificate of dissolution, the corporation's application for reinstatement, and the Secretary of State's notice of denial.

(c) The district court may summarily order the Secretary of State to reinstate the dissolved corporation or may take other action the court considers appropriate.

(d) The district court's final decision may be appealed as in other civil proceedings.

Sec. 141. (a) The district court may dissolve a corporation:

(1) In a proceeding by the Attorney General if it is established that:

(i) The corporation obtained its articles of incorporation through fraud;

(ii) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(iii) The corporation is a public benefit corporation and the corporate assets are being misapplied or wasted; or

(iv) The corporation is a public benefit corporation and is no longer able to carry out its purposes;

(2) Except as provided in the articles or bylaws of a religious corporation, in a proceeding by fifty members or members holding five percent of the voting power, whichever is less, or by a director or any person specified in the articles, if it is established that:

(i) The directors are deadlocked in the management of the corporate affairs, and the members, if any, are unable to breach the deadlock;

(ii) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(iii) The members are deadlocked in voting power and have failed, for a period that includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have, or would otherwise have, expired;

(iv) The corporate assets are being misapplied or wasted; or

(v) The corporation is a public benefit or religious corporation and is no longer able to carry out its purposes;

(3) In a proceeding by a creditor if it is established that:

(i) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(ii) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent; or

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

(b) Prior to dissolving a corporation, the district court shall consider whether:

(1) There are reasonable alternatives to dissolution;

(2) Dissolution is in the public interest, if the corporation is a public benefit corporation; and

(3) Dissolution is the best way of protecting the interests of members if the corporation is a mutual benefit corporation.

Sec. 142. (a) Venue for a proceeding by the Attorney General to dissolve a corporation lies in the district court in the county where a corporation's principal office (or, if none in this state, its registered office) is or was last located or the district court of Lancaster County. Venue for a proceeding brought by any other party named in section 141 of this act lies in the county where a corporation's principal office (or, if none in this state, its registered office) is or was last located.

(b) It is not necessary to make directors or members parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(c) The district court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

(d) A person other than the Attorney General who brings an involuntary dissolution proceeding for a public benefit or religious corporation shall forthwith give written notice of the proceeding to the Attorney General who may intervene.

Sec. 143. (a) The district court in a proceeding brought to dissolve a public benefit or mutual benefit corporation may appoint one or

more receivers to wind up and liquidate, or one or more custodians to manage, the affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The district court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

(b) The district court may appoint an individual or a domestic or foreign business or nonprofit corporation (authorized to transact business in this state) as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(c) The district court shall describe the powers and duties of the receiver or custodian in its appointing order, which order may be amended from time to time. Among other powers:

(1) The receiver (i) may dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the district court. The receiver's power to dispose of the assets of the corporation is subject to any trust and any other restrictions that would be applicable to the corporation; and (ii) may sue and defend in the receiver's or custodian's name as receiver or custodian of the corporation in all courts of this state;

(2) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the corporation in the best interests of its members and creditors.

(d) The district court during a receivership may redesignate the receiver as a custodian, and during a custodianship may redesignate the custodian as a receiver, if doing so is in the best interests of the corporation, its members, and creditors.

(e) The district court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and the receiver or custodian's counsel from the assets of the corporation or proceeds from the sale of the assets.

Sec. 144. (a) If after a hearing the district court determines that one or more grounds for judicial dissolution described in section 141 of this act exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the district court shall deliver a certified copy of the decree to the Secretary of State, who shall file it.

(b) After entering the decree of dissolution, the district court shall direct the winding up and liquidation of the corporation's affairs in accordance with section 134 of this act and the notification of its claimants in accordance with sections 135 and 136 of this act.

Sec. 145. Assets of a dissolved corporation that should be transferred to a creditor, claimant, or member of the corporation who cannot be found or who is not competent to receive them, shall be reduced to cash, subject to known trust restrictions, and deposited with the State Treasurer for safekeeping in accordance with the Uniform Disposition of Unclaimed Property Act. In the State Treasurer's discretion the property may be received and held in kind. When the creditor, claimant, or member furnishes satisfactory proof of entitlement to the amount deposited or property held in kind, the State Treasurer shall deliver to the creditor, claimant, or member, or his or her representative, that amount or property in accordance with the act.

Sec. 146. (a) A foreign corporation may not transact business in this state until it obtains a certificate of authority from the Secretary of State.

(b) The following activities, among others, do not constitute transacting business within the meaning of subsection (a) of this section:

- (1) Maintaining, defending, or settling any proceeding;
- (2) Holding meetings of the board of directors or members or carrying on other activities concerning internal corporate affairs;
- (3) Maintaining bank accounts;
- (4) Maintaining offices or agencies for the transfer, exchange, and registration of memberships or securities or maintaining trustees or depositaries with respect to those securities;
- (5) Selling through independent contractors;
- (6) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
- (7) Creating or acquiring indebtedness, mortgages, and security

interests in real or personal property;

(8) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;

(9) Owning, without more, real or personal property;

(10) Conducting an isolated transaction which is completed within thirty days and which is not one in the course of repeated transactions of a like nature; or

(11) Transacting business in interstate commerce.

(c) The list of activities in subsection (b) of this section is not exhaustive.

Sec. 147. (a) A foreign corporation transacting business in this state without a certificate of authority may not maintain a proceeding in any court in this state until it obtains a certificate of authority.

(b) The successor to a foreign corporation that transacted business in this state without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding on that cause of action in any court in this state until the foreign corporation or its successor obtains a certificate of authority.

(c) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(d) A foreign corporation is liable for a civil penalty of five hundred dollars for each day, but not to exceed a total of ten thousand dollars for each year, it transacts business in this state without a certificate of authority. The Attorney General may collect all penalties due under this subsection. All civil penalties collected under this subsection shall be remitted by the Attorney General for credit to the permanent school fund.

(e) Notwithstanding subsections (a) and (b) of this section, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in this state.

Sec. 148. (a) A foreign corporation may apply for a certificate of authority to transact business in this state by delivering an application to the Secretary of State. The application must set forth:

(1) The name of the foreign corporation or, if its name is unavailable for use in this state, a corporate name that satisfies the requirements of section 151 of this act;

(2) The name of the state or country under whose law it is incorporated;

(3) The date of incorporation and period of duration;

(4) The street address of its principal office;

(5) The street address of its registered office in this state and the name of its registered agent at that office;

(6) The names and street addresses of its current directors and officers;

(7) Whether the foreign corporation has members; and

(8) Whether the corporation, if it had been incorporated in this state, would be a public benefit, mutual benefit, or religious corporation.

(b) The foreign corporation shall deliver with the completed application a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated. Such certificate or document shall not bear a date of more than sixty days prior to the date the application is filed in this state.

Sec. 149. (a) A foreign corporation authorized to transact business in this state must obtain an amended certificate of authority from the Secretary of State if it changes:

(1) Its corporate name;

(2) The period of its duration; or

(3) The state or country of its incorporation.

(b) The requirements of section 148 of this act for obtaining an original certificate of authority apply to obtaining an amended certificate under this section.

Sec. 150. (a) A certificate of authority authorizes the foreign corporation to which it is issued to transact business in this state subject, however, to the right of the state to revoke the certificate as provided in the Nebraska Nonprofit Corporation Act.

(b) A foreign corporation with a valid certificate of authority has the same rights and enjoys the same privileges as a domestic corporation of

like character. A foreign corporation is also, except as otherwise provided by the act, subject to the same duties, restrictions, penalties, and liabilities now or later imposed on a domestic corporation of like character.

(c) The act does not authorize this state to regulate the organization or internal affairs of a foreign corporation authorized to transact business in this state.

Sec. 151. (a) If the corporate name of a foreign corporation does not satisfy the requirements of section 31 of this act, the foreign corporation, to obtain or maintain a certificate of authority to transact business in this state, may use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

(b) Except as authorized by subsections (c) and (d) of this section, the corporate name (including a fictitious name) of a foreign corporation must be distinguishable upon the records of the Secretary of State from:

(1) The corporate name of a nonprofit or business corporation incorporated or authorized to transact business in this state;

(2) A corporate name reserved or registered under section 32 or 33 of this act or section 21-2029 or 21-2030;

(3) The fictitious name of another foreign business or nonprofit corporation authorized to transact business in this state; and

(4) A trade name registered in this state pursuant to sections 87-208 to 87-220.

(c) A foreign corporation may apply to the Secretary of State for authorization to use in this state the name of another corporation (incorporated or authorized to transact business in this state) that is not distinguishable upon the records of the Secretary of State from the name applied for. The Secretary of State shall authorize use of the name applied for if:

(1) The other corporation consents in writing to the use and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or

(2) The applying corporation delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing its right to use the name applied for in this state.

(d) A foreign corporation may use in this state the name (including the fictitious name) of another domestic or foreign business or nonprofit corporation that is used in this state if the other corporation is incorporated or authorized to transact business in this state and the foreign corporation:

(1) Has merged with the other corporation;

(2) Has been formed by a reorganization of the other corporation; or

(3) Has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(e) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of section 31 of this act, it shall not transact business in this state under the changed name until it adopts a name satisfying the requirements of section 31 of this act and obtains an amended certificate of authority under section 149 of this act.

Sec. 152. Each foreign corporation authorized to transact business in this state must continuously maintain in this state:

(1) A registered office with the same address as that of its registered agent; and

(2) A registered agent, who may be:

(i) An individual who resides in this state and whose office is identical with the registered office;

(ii) A domestic business or nonprofit corporation whose office is identical with the registered office; or

(iii) A foreign business or nonprofit corporation authorized to transact business in this state whose office is identical with the registered office.

Sec. 153. (a) A foreign corporation authorized to transact business in this state may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:

(1) Its name;

(2) The street address of its current registered office;

(3) If the current registered office is to be changed, the street address of its new registered office.

(4) The name of its current registered agent;

(5) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent (either on the statement or attached to it) to the appointment; and

(6) That after the change or changes are made, the street addresses of its registered office and the office of its registered agent will be identical.

(b) If a registered agent changes the street address of its business office, the agent may change the address of the registered office of any foreign corporation for which the agent is the registered agent by notifying the corporation in writing of the change and signing (either manually or in facsimile) and delivering to the Secretary of State for filing a statement of change that complies with the requirements of subsection (a) of this section and recites that the corporation has been notified of the change.

Sec. 154. (a) The registered agent of a foreign corporation may resign as agent by signing and delivering to the Secretary of State for filing the original and two exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.

(b) After filing the statement, the Secretary of State shall attach the filing receipt to one copy and mail the copy and receipt to the registered office if not discontinued. The Secretary of State shall mail the other copy to the foreign corporation at its principal office address shown in its most recent biennial report.

(c) The agency is terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

Sec. 155. (a) The registered agent of a foreign corporation authorized to transact business in this state is the corporation's agent for service of process, notice, or demand required or permitted by law to be served on the foreign corporation.

(b) A foreign corporation may be served by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent biennial report filed under section 172 of this act if the foreign corporation:

(1) Has no registered agent or its registered agent cannot with reasonable diligence be served;

(2) Has withdrawn from transacting business in this state under section 156 of this act; or

(3) Has had its certificate of authority revoked under section 158 of this act.

(c) Service is perfected under subsection (b) of this section at the earliest of:

(1) The date the foreign corporation receives the mail;

(2) The date shown on the return receipt, if signed on behalf of the foreign corporation; or

(3) Five days after its deposit in the United States mail, as evidenced by the postmark if mailed postpaid and correctly addressed.

(d) This section does not prescribe the only means, or necessarily the required means, of serving a foreign corporation.

Sec. 156. (a) A foreign corporation authorized to transact business in this state may not withdraw from this state until it obtains a certificate of withdrawal from the Secretary of State.

(b) A foreign corporation authorized to transact business in this state may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application must set forth:

(1) The name of the foreign corporation and the name of the state or country under whose law it is incorporated;

(2) That it is not transacting business in this state and that it surrenders its authority to transact business in this state;

(3) That it revokes the authority of its registered agent to accept service on its behalf and consents that service of process in any proceeding based on a cause of action arising during the time it was authorized to do business in this state may thereafter be made on such corporation outside this state; and

(4) A mailing address at which process against the corporation may be served.

Sec. 157. (a) The Secretary of State may commence a proceeding under section 158 of this act to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The foreign corporation does not deliver the biennial report to

the Secretary of State when it is due;

(2) The foreign corporation does not pay any fees, taxes, or penalties imposed by the Nebraska Nonprofit Corporation Act or other law when they are due;

(3) The foreign corporation is without a registered agent or registered office in this state for sixty days or more;

(4) The foreign corporation does not inform the Secretary of State under section 153 or 154 of this act that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within ninety days after the change, resignation, or discontinuance;

(5) An incorporator, director, officer, or agent of the foreign corporation signed a document such person knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing; or

(6) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of corporate records in the state or country under whose law the foreign corporation is incorporated stating that it has been dissolved or has disappeared as the result of a merger.

(b) The Attorney General may commence a proceeding under section 158 of this act to revoke the certificate of authority of a foreign corporation authorized to transact business in this state if:

(1) The corporation has continued to exceed or abuse the authority conferred upon it by law;

(2) The corporation would have been a public benefit corporation had it been incorporated in this state and that its corporate assets in this state are being misapplied or wasted; or

(3) The corporation would have been a public benefit corporation had it been incorporated in this state and it is no longer able to carry out its purposes.

Sec. 158. (a) The Secretary of State upon determining that one or more grounds exist under section 157 of this act for revocation of a certificate of authority shall serve the foreign corporation with written notice of that determination under section 155 of this act.

(b) The Attorney General, upon determining that one or more grounds exist under subsection (b) of section 157 of this act for revocation of a certificate of authority, shall request the Secretary of State to serve, and the Secretary of State shall serve the foreign corporation with written notice of that determination under section 155 of this act.

(c) If the foreign corporation does not, within sixty days after service of the notice is perfected under section 155 of this act, correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State or Attorney General that each ground for revocation determined by the Secretary of State or Attorney General does not exist, the Secretary of State may revoke the foreign corporation's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate of revocation and serve a copy on the foreign corporation under section 155 of this act.

(d) The authority of a foreign corporation to transact business in this state ceases on the date shown on the certificate of revocation revoking its certificate of authority.

(e) Revocation of a foreign corporation's certificate of authority does not terminate the authority of the registered agent of the corporation.

Sec. 159. (a) A foreign corporation the certificate of authority of which has been revoked under section 158 of this act may apply to the Secretary of State for reinstatement. The application must:

(1) Recite the name of the foreign corporation and the effective date of the revocation;

(2) State that the ground or grounds for revocation either did not exist or have been eliminated; and

(3) State that the foreign corporation's name satisfies the requirements of section 151 of this act.

(b) If the Secretary of State determines that the application contains the information required by subsection (a) of this section and that the information is correct, the Secretary of State shall cancel the certificate of revocation and prepare a certificate of reinstatement reciting that determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the foreign corporation under section 155 of this act.

(c) When reinstatement is effective, it relates back to and takes

effect as of the effective date of the revocation and the foreign corporation shall resume carrying on its activities as if the revocation had never occurred.

Sec. 160. (a) The Secretary of State, upon denying a foreign corporation's application for reinstatement following revocation of its certificate of authority, shall serve the foreign corporation under section 155 of this act with a written notice that explains the reason or reasons for denial.

(b) The foreign corporation may appeal the denial of reinstatement to the district court of Lancaster County within thirty days after the service of the notice of denial is perfected under section 155 of this act. The foreign corporation appeals by petitioning the district court to set aside the revocation and attaching to the petition copies of the Secretary of State's certificate of revocation, the foreign corporation's application for reinstatement, and the Secretary of State's notice of denial.

(c) The district court may summarily order the Secretary of State to reinstate the certificate of authority or may take any other action it considers appropriate.

(d) The district court's final decision may be appealed as in other civil proceedings.

Sec. 161. In lieu of compliance with section 146 of this act, relating to the authorization of foreign corporations to transact business in this state, any corporation organized under the laws of any other state or states, which has heretofore filed, or which may hereafter file, with the Secretary of State of this state, a copy certified by the Secretary of State or other proper officer of the state or country under the laws of which such foreign corporation is formed, of its charter or articles of association or incorporation, together with all amendments to such date and the street address of its registered office in this state and the name of its registered agent at that office, on filing with the Secretary of State a certified copy of a resolution adopted by its board of directors, including the date the resolution was adopted, accepting and agreeing to be bound by the provisions of the Nebraska Nonprofit Corporation Act, with respect to its property and business operations within this state, shall become and be a body corporate of this state.

Sec. 162. Any foreign corporation, which has domesticated pursuant to section 161 of this act, may cease to be a domesticated corporation by filing with the Secretary of State a certified copy of a resolution adopted by its board of directors, renouncing its domestication and withdrawing its acceptance and agreement provided for in section 161 of this act.

Sec. 163. If a foreign corporation, which has domesticated pursuant to section 161 of this act, surrenders its foreign corporate charter and files, records, and publishes notice of amended articles of incorporation in the manner, time, and places required by sections 20, 21, and 173 of this act, such foreign corporation shall thereupon become and be a domestic corporation organized under the Nebraska Nonprofit Corporation Act.

Sec. 164. Any corporation organized under the laws of any other state or territory which had become, in accordance with section 21-1966.01, as such section existed prior to January 1, 1997, a body corporate of this state, shall retain such status for all purposes notwithstanding the repeal of such section.

Sec. 165. (a) A corporation shall keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors as authorized by subsection (d) of section 85 of this act.

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or its agent shall maintain a record of its members in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(d) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office:

(1) Its articles or restated articles of incorporation and all amendments to them currently in effect;

(2) Its bylaws or restated bylaws and all amendments to them currently in effect;

(3) Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;

(4) The minutes of all meetings of members and records of all actions approved by the members for the past three years;

(5) All written communications to members generally within the past three years, including the financial statements furnished for the past three years under section 170 of this act;

(6) A list of the names and business or home addresses of its current directors and officers; and

(7) Its most recent biennial report delivered to the Secretary of State under section 172 of this act.

Sec. 166. (a) Subject to subsection (e) of this section and subsection (c) of section 167 of this act, a member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation described in subsection (e) of section 165 of this act if the member gives the corporation written notice or a written demand at least five business days before the date on which the member wishes to inspect and copy.

(b) Subject to subsection (e) of this section, a member is entitled to inspect and copy, at a reasonable time and reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (c) of this section and gives the corporation written notice at least five business days before the date on which the member wishes to inspect and copy:

(1) Excerpts from any records required to be maintained under subsection (a) of section 165 of this act, to the extent not subject to inspection under subsection (a) of this section;

(2) Accounting records of the corporation; and

(3) Subject to section 169 of this act, the membership list.

(c) A member may inspect and copy the records identified in subsection (b) of this section only if:

(1) The member's demand is made in good faith and for a proper purpose;

(2) The member describes with reasonable particularity the purpose and the records the member desires to inspect; and

(3) The records are directly connected with this purpose.

(d) This section does not affect:

(1) The right of a member to inspect records under section 59 of this act or, if the member is in litigation with the corporation, to the same extent as any other litigant; or

(2) The power of a court, independent of the Nebraska Nonprofit Corporation Act, to compel the production of corporate records for examination.

(e) The articles or bylaws of a religious corporation may limit or abolish the right of a member under this section to inspect and copy any corporate record.

Sec. 167. (a) A member's agent or attorney has the same inspection and copying rights as the member the agent or attorney represents.

(b) The right to copy records under section 166 of this act includes, if reasonable, the right to receive copies made by photographic, xerographic, or other means.

(c) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge may not exceed the estimated cost of production or reproduction of the records.

(d) The corporation may comply with a member's demand to inspect the record of members under subdivision (b)(3) of section 166 of this act by providing the member with a list of its members that was compiled no earlier than the date of the member's demand.

Sec. 168. (a) If a corporation does not allow a member who complies with subsection (a) of section 166 of this act to inspect and copy any records required by that subsection to be available for inspection, the district court in the county where the corporation's principal office (or, if none in this state, its registered office) is located may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the member.

(b) If a corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who complies with subsections (b) and (c) of section 166 of this act may apply to the district court in the county where the corporation's principal office (or, if none in this state, its registered office) is located for an order to permit inspection and copying of the records demanded. The district court shall dispose of an application under this subsection on an expedited basis.

(c) If the district court orders inspection and copying of the

records demanded, it shall also order the corporation to pay the member's costs (including reasonable counsel fees) incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.

(d) If the district court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

Sec. 169. Without consent of the board, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a member's interest as a member. Without limiting the generality of the foregoing, without the consent of the board a membership list or any part thereof may not be:

(1) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the members in an election to be held by the corporation;

(2) Used for any commercial purpose; or

(3) Sold to or purchased by any person.

Sec. 170. (a) Except as provided in the articles or bylaws of a religious corporation, a corporation, upon written demand from a member, shall furnish that member its latest annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries or affiliates, as appropriate, that include a balance sheet as of the end of the fiscal year and a statement of operations for that year. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements must also be prepared on that basis.

(b) If annual financial statements are reported upon by a public accountant, the accountant's report must accompany the statements. If not, the statements must be accompanied by a statement of the president or the person responsible for the corporation's financial accounting records:

(1) Stating the president's or other person's reasonable belief as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(2) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

Sec. 171. If a corporation indemnifies or advances expenses to a director under section 97, 98, 99, or 100 of this act in connection with a proceeding by or in the right of the corporation, the corporation shall report the indemnification or advance in writing to the members with or before the notice of the next meeting of members.

Sec. 172. (a) Commencing in 1999 and each odd-numbered year thereafter, each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the Secretary of State a biennial report on a form prescribed and furnished by the Secretary of State that sets forth:

(1) The name of the corporation and the state or country under whose law it is incorporated;

(2) The street address of its registered office and the name of its registered agent at the office in this state;

(3) The street address of its principal office;

(4) The names and business or residence addresses of its directors and principal officers;

(5) A brief description of the nature of its activities;

(6) Whether or not it has members;

(7) If it is a domestic corporation, whether it is a public benefit, mutual benefit, or religious corporation; and

(8) If it is a foreign corporation, whether it would be a public benefit, mutual benefit, or religious corporation had it been incorporated in this state.

(b) The information in the biennial report must be current on the date the biennial report is executed on behalf of the corporation.

(c) The first biennial report must be delivered to the Secretary of State between January 1 and April 1 of the odd-numbered year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent biennial reports must be delivered to the Secretary of State between January 1 and April 1 of the following odd-numbered years. For purposes of the Nebraska Nonprofit Corporation Act, the biennial report is due on April 1 of the odd-numbered year in which it must be delivered to the Secretary of State as required by this section.

(d) If a biennial report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. If the report is corrected to contain the information required by this section and delivered to the Secretary of State within thirty days after the effective date of notice, it is deemed to be timely filed.

(e) Upon the delivery of the biennial report as provided in this section, the Secretary of State shall charge and collect a fee as prescribed in section 5 of this act. For purposes of the Nebraska Nonprofit Corporation Act, the fee is due on April 1 of the odd-numbered year in which the biennial report must be delivered to the Secretary of State as required by this section.

(f) Biennial reports shall be filed in 1997 pursuant to sections 21-1981 and 21-1982 (Reissue 1991) as if such sections had not been repealed by this legislative bill. Fees, including penalties, due or delinquent prior to 1999 shall be paid pursuant to section 21-1982 (Reissue 1991) as if such section had not been repealed by this act.

Sec. 173. (a) Notice of incorporation, amendment, or merger of a domestic corporation subject to the Nebraska Nonprofit Corporation Act shall be published for three successive weeks in some legal newspaper of general circulation in the county where the corporation's principal office or, if none in this state, its registered office is located.

A notice of incorporation shall show (1) the corporate name of the corporation, (2) whether the corporation is a public benefit, mutual benefit, or religious corporation, (3) the street address of the corporation's initial registered office and the name of its initial registered agent at that office, (4) the name and street address of each incorporator, and (5) whether or not the corporation will have members.

A brief resume of any amendment or merger of the corporation shall be published in the same manner for the same period of time as a notice of incorporation is required to be published.

(b) Notice of dissolution of a domestic corporation shall be published for three successive weeks in some legal newspaper of general circulation in the county where the corporation's principal office or, if none in this state, its registered office is located. A notice of dissolution shall show (1) the terms and conditions of such dissolution, (2) the names of the persons who are to wind up and liquidate its affairs and their official titles, and (3) a statement of assets and liabilities of the corporation.

(c) Proof of publication of any of the notices required to be published under this section shall be filed in the office of the Secretary of State. In the event any notice required to be given pursuant to this section is not given, but is subsequently published for the required time, and proof of the subsequent publication thereof is filed in the office of the Secretary of State, the acts of such corporation prior to, as well as after, such publication shall be valid.

Sec. 174. The Nebraska Nonprofit Corporation Act applies to all domestic corporations in existence on January 1, 1997, that were incorporated under Chapter 21, article 19 and to any not-for-profit corporations in existence on January 1, 1997, that were heretofore organized under any laws repealed by Laws 1959, LB 349.

Sec. 175. A foreign corporation authorized to transact business in this state on January 1, 1997, is subject to the Nebraska Nonprofit Corporation Act, but is not required to obtain a new certificate of authority to transact business under the act.

Sec. 176. (a) Except as provided in subsection (b) of this section, the repeal of a statute by this legislative bill shall not affect:

(1) The operation of the statute or any action taken under it before its repeal;

(2) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;

(3) Any violation of the statute or any penalty, forfeiture, or punishment incurred because of the violation, before its repeal;

(4) Any proceeding, reorganization, or dissolution commenced under the statute before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed; or

(5) Any meeting of members or directors or action by written consent noticed or any action taken before its repeal as a result of a meeting of members or directors or action by written consent.

(b) If a penalty or punishment imposed for violation of a statute repealed by this legislative bill is reduced by the Nebraska Nonprofit Corporation Act, the penalty or punishment, if not already imposed, shall be

imposed in accordance with the act.

Sec. 177. Each domestic corporation existing on January 1, 1997, that is or becomes subject to the Nebraska Nonprofit Corporation Act shall be designated as a public benefit, mutual benefit, or religious corporation as follows:

(1) Any corporation designated by statute as a public benefit corporation, a mutual benefit corporation, or a religious corporation is the type of corporation designated by statute;

(2) Any corporation that does not come within subdivision (1) of this section, but is organized primarily or exclusively for religious purposes, is a religious corporation;

(3) Any corporation that does not come within subdivision (1) or (2) of this section, but is recognized as exempt under section 501(c)(3) of the Internal Revenue Code, or any successor section, is a public benefit corporation;

(4) Any corporation that does not come within subdivision (1), (2), or (3) of this section, but is organized for a public or charitable purpose, and upon dissolution must distribute its assets to a public benefit corporation, the United States, a state, or a person recognized as exempt under section 501(c)(3) of the Internal Revenue Code, or any successor section, is a public benefit corporation; and

(5) Any corporation that does not come within subdivision (1), (2), (3), or (4) of this section is a mutual benefit corporation.

Sec. 178. Section 8-1401, Revised Statutes Supplement, 1995, is amended to read:

8-1401. No person or corporation or association organized under Chapter 8, article 1, 2, 3, or 4, the Credit Union Act, the Nebraska Depository Institution Guaranty Corporation Act, the ~~Nebraska Nonprofit Corporation Act~~ Nebraska Nonprofit Corporation Act, the Business Corporation Act, the Nebraska Professional Corporation Act, or the Nebraska Industrial Development Corporation Act, or otherwise authorized to conduct business in Nebraska or organized under the laws of the United States, shall be required to disclose any information, financial or otherwise, that it deems confidential concerning its affairs or the affairs of any person or corporation with which it is doing business to any person, party, agency, or organization, unless there shall first be presented to such person, corporation, or association a court order of a court of competent jurisdiction setting forth the exact nature and limits of such required disclosure and a showing that all persons or organizations to be affected by such order have had reasonable notice and an opportunity to be heard upon the merits of such order. The requesting party shall pay the costs of providing such information pursuant to section 8-1402. This section shall not apply to any duly constituted supervisory regulatory agency of such person, corporation, or association, to disclosures governed by rules for discovery adopted and promulgated pursuant to section 25-1273.01, or to such cases for which specific disclosures are specifically required by other sections of the statutes heretofore or hereafter enacted, except that the Department of Banking and Finance shall be subject to the payment of cost provision of this section when making inquiries that are beyond those normally made in conducting examinations and inquiries for the purpose of determining the safety and soundness of a financial institution, but shall not be subject to the disclosure and reasonable notice provisions of this section when making reasonable inquiries of any person, corporation, or association for the purpose of enforcing any of the laws over which the department has jurisdiction.

Sec. 179. Section 21-1101, Reissue Revised Statutes of Nebraska, is amended to read:

21-1101. Fontenelle Forest Association is hereby authorized to organize as a corporation not for profit under the provisions of the ~~Nebraska Nonprofit Corporation Act, Chapter 21, article 19~~ Nebraska Nonprofit Corporation Act. Upon so organizing, it shall have all of the powers and immunities provided for by such act and shall in all respects be subject to the provisions of such act, and for all purposes shall be deemed the successor to Fontenelle Forest Association as now organized and constituted.

Sec. 180. Section 21-17,132, Reissue Revised Statutes of Nebraska, is amended to read:

21-17,132. With the approval of the Department of Banking and Finance, any ten or more depository institutions may form a corporation under the provisions of sections 21-17,127 to 21-17,145. The corporation shall perform its functions under a plan of operation established and approved under section 21-17,136 and shall exercise its powers through a board of directors established under section 21-17,133. Such corporation shall have all of those

powers granted or permitted nonprofit corporations as provided in ~~Chapter 21, article 19~~ the Nebraska Nonprofit Corporation Act, and as provided under sections 21-17,127 to 21-17,145.

Sec. 181. Section 21-2048, Revised Statutes Supplement, 1995, is amended to read:

21-2048. (1) The shareholders of a corporation shall not have a preemptive right to acquire the corporation's unissued shares except to the extent the articles of incorporation so provide. The shareholders of a corporation organized prior to January 1, 1996, shall continue to have a preemptive right to acquire the corporation's unissued shares in the manner provided in this section if the articles of incorporation of the corporation did not, on or after January 1, 1996, expressly eliminate such preemptive rights to its shareholders.

(2) A statement included in the articles of incorporation that the corporation elects to have preemptive rights, or words of similar import, shall mean that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(a) The shareholders of the corporation shall have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors, to provide a fair and reasonable opportunity to exercise the right to acquire proportional amounts of the corporation's unissued shares upon the decision of the board of directors to issue them;

(b) A shareholder may waive his or her preemptive right. A waiver evidenced by a writing shall be irrevocable even though it is not supported by consideration;

(c) There shall be no preemptive right with respect to:

(i) Shares issued as compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or its affiliates;

(ii) Shares issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation, its subsidiaries, or its affiliates;

(iii) Shares authorized in articles of incorporation that are issued within six months from the effective date of incorporation; or

(iv) Shares sold otherwise than for money;

(d) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class;

(e) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights; and

(f) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year shall be subject to the shareholders' preemptive rights.

(3) For purposes of this section, shares shall include a security convertible into or carrying a right to subscribe for or acquire shares.

Sec. 182. Section 21-2317, Revised Statutes Supplement, 1995, is amended to read:

21-2317. In all cases when there has been an attempt to incorporate a local political subdivision industrial development corporation under the provisions of the Nebraska Nonprofit Corporation Act ~~Nebraska Nonprofit Corporation Act~~, and articles of incorporation have been duly recorded and filed containing provisions substantially similar to those for incorporation under the provisions of the Nebraska Industrial Development Corporation Act, the corporation may, with the approval of the governing body of the local political subdivision in which it is located, become validated ab initio as a corporation organized under and governed by the act with respect to any bonds issued and all other matters concerning its affairs and business by executing and filing with the Secretary of State a certificate of its adoption of the act.

Sec. 183. Section 21-2602, Revised Statutes Supplement, 1994, is amended to read:

21-2602. (1) A limited liability company may be organized pursuant to the Limited Liability Company Act for any lawful purpose other than banking or insurance for the purpose of being a financial institution which is subject to supervision by the Department of Banking and Finance under section 8-102 or which would be subject to supervision by the department if chartered by the

State of Nebraska or the business of an insurer as described in section 44-102.

(2) A limited liability company organized pursuant to the act shall be deemed to be a syndicate for purposes of Article XII, section 8, of the Constitution of Nebraska, except that a limited liability company in which the members are members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, or their spouses, at least one of whom is a person residing on or actively engaged in the day-to-day labor and management of the farm or ranch, and none of whom are nonresident aliens, shall not be deemed to be a syndicate for purposes of Article XII, section 8, of the Constitution of Nebraska.

Sec. 184. Section 21-2619, Revised Statutes Supplement, 1994, is amended to read:

21-2619. (1) A member shall not receive out of limited liability company property any part of his or her contributions to capital until:

(a) All liabilities of the limited liability company other than liabilities to members on account of their contributions to capital have been paid or there remains property of the limited liability company sufficient to pay them;

(b) The members constituting at least a two-thirds majority in interest or such greater interest as specified in the articles of organization have consented unless the return of the contributions to capital may be rightfully demanded obtained pursuant to law section 21-2625; or

(c) The articles of organization are canceled or amended to set out the withdrawal or reduction.

(2) ~~Subject to subsection (1) of this section, a member may demand the return of his or her contributions to capital:~~

~~(a) On the dissolution of the limited liability company; or~~
 (b) ~~After the member has given all other members of the limited liability company six months¹ prior notice in writing if no other time limit is specified in the articles of organization for the dissolution of the limited liability company.~~

~~(3) In the absence of a statement in the articles of organization to the contrary or the consent of all members of the limited liability company, a member, irrespective of the nature of his or her contributions to capital, shall have only the no right to demand and or receive cash in return for specific property in satisfaction of a withdrawal or reduction of his or her contributions to capital accounts.~~

~~(4) A member of a limited liability company may have the limited liability company dissolved and its affairs wound up when:~~

~~(a) The member rightfully but unsuccessfully has demanded the return of his or her contributions to capital; or~~

~~(b) The other liabilities of the limited liability company have not been paid or the limited liability company property is insufficient for their payment and the member would otherwise be entitled to the return of his or her contributions to capital.~~

Sec. 185. Section 21-2621, Revised Statutes Supplement, 1994, is amended to read:

21-2621. The interest of a member in a limited liability company constitutes the personal estate of the member and may be transferred or assigned as provided in the articles of organization or operating agreement. If a two-thirds majority in interest, or such greater interest as otherwise provided in the articles of organization or operating agreement, of the members of the limited liability company other than the member proposing to dispose of his or her interest do not approve of the proposed transfer or assignment of part or all of a member's interest to a nonmember by written consent, the nonmember transferee of the member's interest shall have no right to participate in the management of the business and affairs of the limited liability company or to become a member. The nonmember transferee shall only be entitled to receive the share of profits or other compensation by way of income and the return of contributions to capital to which that the transferring member would otherwise be entitled. Additional members shall be admitted upon an affirmative vote of a majority in interest, or such greater interest as otherwise provided in the articles of organization or operating agreement, of the current members of the limited liability company.

Sec. 186. Section 21-2622, Revised Statutes Supplement, 1994, is amended to read:

21-2622. A limited liability company shall be dissolved upon the occurrence of the following:

(1) The expiration of the period fixed for the duration of the limited liability company;

(2) The unanimous written agreement of all members; or

(3) The death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member or the occurrence of any other event which terminates the continued membership of a member in the limited liability company unless the business of the limited liability company is continued by the consent of the remaining members constituting at least a two-thirds majority in interest or such greater interest as otherwise provided in the articles of organization.

Sec. 187. Section 21-2628, Revised Statutes Supplement, 1994, is amended to read:

21-2628. (1) The articles of organization of a limited liability company shall be amended when:

(a) There is a change in the name of the limited liability company;

(b) There is a change in the purpose for which the limited liability company is organized;

(c) There is a change in stated capital that reduces the stated capital below the amount in the articles of organization;

(d) There is a change in the time as stated in the articles of organization for the dissolution of the limited liability company;

(e) A time is fixed for the dissolution of the limited liability company if no time is specified in the articles of organization; or

(f) The members desire to make a change in any other statement in the articles of organization so the articles will accurately represent the agreement between the members.

(2) The form for evidencing an amendment to the articles of organization of a limited liability company shall be prescribed by the Secretary of State and shall contain such terms and provisions as determined by the Secretary of State. The amendment shall be executed by a two-thirds majority in interest, or such greater interest as otherwise provided in the articles of organization, of the members. Duplicate originals of the amendment shall be forwarded to the Secretary of State for filing with the filing fee.

Sec. 188. Section 21-2631, Revised Statutes Supplement, 1994, is amended to read:

21-2631. Each member, manager, employee, or agent of a limited liability company organized under the Limited Liability Company Act who renders professional services shall hold a valid license or otherwise be duly authorized to render those professional services under the law of this state if he or she renders professional services within this state or under the law of the state, territory, or other jurisdiction in which he or she renders those professional services. Before rendering professional services, the limited liability company shall (1)(a) file with the Secretary of State a registration certificate issued to the limited liability company by the regulatory body of the particular profession for which the limited liability company is organized to do business, which certificate sets forth the name and residence address of every member as of the last day of the month preceding the filing, and ~~(2)~~ (b) certify that all members, managers, and professional employees who are required by law to do so are duly licensed or otherwise authorized to perform the professional services for which the limited liability company is organized or (2) comply with and qualify under the procedures set forth in subsection (2) of section 21-2631.01.

Sec. 189. Section 21-2631.01, Revised Statutes Supplement, 1994, is amended to read:

21-2631.01. (1) An application for issuance of a registration certificate shall be made by the limited liability company to the regulatory body in writing and shall contain the names of all members, managers, and professional employees of the limited liability company, the street address at which the applicant proposes to perform professional services, and such other information as may be required by the regulatory body. If it appears to the regulatory body that each member, manager, and professional employee of the applicant required by law to be licensed is licensed or otherwise authorized to practice the profession of the applicant and that each member, manager, or professional employee required by law to be licensed is not otherwise disqualified from performing the professional services of the applicant, such regulatory body shall certify in duplicate upon a form bearing its date of issuance and prescribed by such regulatory body that the proposed or existing limited liability company complies with the provisions of the Limited Liability Company Act and of the applicable rules and regulations of the regulatory body. Each applicant for such registration certificate shall pay the regulatory body a fee of twenty-five dollars for the issuance of the certificate.

One copy of such certificate shall be prominently displayed to

public view upon the premises of the principal place of business of the limited liability company, and one copy shall be filed with the Secretary of State who shall charge a fee of twenty-five dollars for filing the same. The certificate shall be filed in the office of the Secretary of State with the articles of organization. A registration certificate bearing an issuance date more than twelve months old shall not be eligible for filing with the Secretary of State.

(2) When licensing records of regulating boards are electronically accessible to the Secretary of State, the Secretary of State shall access the records. The access of the records shall be made in lieu of the certificate of registration or registration certificate being prepared and issued by the regulating board. The limited liability company shall file with the Secretary of State an application setting forth the names of all members, managers, and professional employees of such limited liability company who are required by law to be licensed or otherwise authorized to practice the professional services for which the limited liability company is organized as of the last day of the month preceding the date of application and shall file with the Secretary of State an annual update thereafter. The application shall be completed on a form prescribed by the Secretary of State and shall contain such other information as the Secretary of State may require. The application shall be accompanied by a license verification fee of fifty dollars.

The Secretary of State shall verify that all members, managers, and professional employees who are required by law to do so are duly licensed or otherwise legally authorized to render the same professional service or ancillary service as those which the limited liability company renders through electronic accessing of the regulating board's records. If any member, manager, or professional employee is not licensed or otherwise legally authorized to perform the professional service that the limited liability company was organized to render, the limited liability company shall be suspended. The suspension shall remain in effect until the limited liability company attests in writing that all members, managers, or professional employees are duly licensed or otherwise legally authorized to render the appropriate service and that information is verified by the Secretary of State or all unlicensed or unauthorized members, managers, or professional employees are no longer members, managers, or professional employees of the limited liability company.

Sec. 190. Section 21-2631.02, Revised Statutes Supplement, 1994, is amended to read:

21-2631.02. Each registration certificate issued to a limited liability company pursuant to section 21-2631.01 shall expire by its own terms one year from the date of issuance and may not be renewed. Each limited liability company shall annually apply (1) to its regulatory body for a registration certificate in the manner provided in such section subsection (1) of section 21-2631.01 or (2) to the Secretary of State pursuant to subsection (2) of section 21-2631.01 if the records of the regulating body are electronically accessible to the Secretary of State. A certificate or application shall be filed annually with the Secretary of State within thirty days before the expiration date of the last certificate or application on file in the office of the Secretary of State or the limited liability company shall be suspended. Registration certificates shall not be transferable or assignable.

Sec. 191. Section 21-2631.03, Revised Statutes Supplement, 1994, is amended to read:

21-2631.03. A regulatory body may, upon a form prescribed by it, suspend or revoke any registration certificate issued to any limited liability company pursuant to subsection (1) of section 21-2631.01 upon the suspension or revocation of the license or other authorization to perform professional service of any member, manager, or professional employee of a holder of a certificate. Notice of such revocation shall be provided the limited liability company affected by sending by certified or registered mail a certified copy of such revocation to the limited liability company at its principal place of business set forth in the registration certificate so revoked. At the same time, the regulatory body shall forward by regular mail a certified copy of such revocation to the Secretary of State who shall remove the suspended or revoked registration certificate from his or her files and deliver it to the regulatory body.

Sec. 192. Section 21-2649, Revised Statutes Supplement, 1994, is amended to read:

21-2649. (1)(a) A proposed plan of merger or consolidation complying with the requirements of section 21-2648 shall be approved in the manner provided by this section.

(b) A limited liability company party to a proposed merger or

consolidation shall have the plan of merger or consolidation authorized and approved by a two-thirds majority in interest, or such greater interest as otherwise provided in the articles of organization, of the members of such limited liability company.

(c) A corporation party to a proposed merger or consolidation shall have the plan of merger or consolidation authorized and approved in the manner and by the vote required by the laws of this state.

(d) A limited partnership party to a proposed merger or consolidation shall have the plan of merger authorized and approved in the manner and by the vote required by its limited partnership agreement and in accordance with the partnership laws of this state.

(2) After a merger or consolidation is authorized, unless the plan of merger or consolidation provides otherwise, and at any time before articles of merger or consolidation are filed, the plan of merger or consolidation may be abandoned, subject to any contractual rights, in accordance with the procedure set forth in the plan of merger or consolidation or, if none is set forth, as follows:

(a) By a two-thirds majority in interest, or such greater interest as otherwise provided in the articles of organization, of the members of each limited liability company that is a constituent entity;

(b) By the vote of the board of directors of any corporation that is a constituent entity; and

(c) By the partners of any limited partnership that is a constituent entity in accordance with its partnership agreement and applicable partnership law.

Sec. 193. Section 23-3504, Revised Statutes Supplement, 1995, is amended to read:

23-3504. The board of trustees of such facility as provided by section 23-3501 shall make, adopt, and file with the county board such bylaws, rules, and regulations for its guidance and for the government of such facility as may be deemed expedient for the economical and equitable conduct of the facility. The board of trustees shall have the exclusive control of the expenditures of all money collected to the credit of the fund for such facility. After the original construction of such facility, the board of trustees shall have exclusive control over any and all improvements or additions thereto and equipment, including the authority to contract, subject to ratification by the county board, for any improvements or additions thereto and equipment. No such improvement, addition, or equipment shall cost more than fifty percent of the current replacement cost of such existing facility and equipment unless the proposition is submitted to the voters of such county at a general election or a special election called for such purpose and approved by a vote of the majority of the electors voting on the proposition at such election. The board of trustees shall also have exclusive control, supervision, care, and custody of the grounds, rooms, and buildings purchased, constructed, leased, or set apart for such purposes. The board of trustees shall have power to pay all current bills, claims, and salaries of all employees of such facility by an order upon its treasurer, signed by the superintendent of such facility and countersigned by the chairperson and secretary of the board of trustees. Facsimile signatures of the superintendent and board members may be used to sign such orders. The board of trustees shall have power to lease such facility and equipment to a charitable nonprofit organization upon such terms and conditions as may be agreed, but no such facility or equipment shall be leased unless authorized by the voters of such county at a general election or a special election called for such purpose and approved by a majority vote of the electors voting on such proposition at any such election. The board of trustees shall also have the following powers: (1) To expend hospital operating funds for the reimbursement of the reasonable expenses of persons interviewed or retained for employment or medical staff appointment; and (2) all powers and authority granted to the boards of nonprofit corporations under the Nebraska Nonprofit Corporation Act Nebraska Nonprofit Corporation Act, except to the extent that those powers are inconsistent with the Hospital Authorities Act, the Nebraska Local Hospital District Act, and sections 23-3501 to 23-3527 or are specifically prohibited by law.

Sec. 194. Section 33-101, Revised Statutes Supplement, 1995, is amended to read:

33-101. There shall be paid to the Secretary of State the following fees:

- (1) For certificate or exemplification with seal, ten dollars;
- (2) For copies of records, for each page, a fee of one dollar;
- (3) For filing articles of association, incorporation, or consolidation, domestic or foreign, if the capital stock is ten thousand

dollars or less, sixty dollars; if the capital stock is more than ten thousand dollars but does not exceed twenty-five thousand dollars, one hundred dollars; if the capital stock is more than twenty-five thousand dollars but does not exceed fifty thousand dollars, one hundred fifty dollars; if the capital stock is more than fifty thousand dollars but does not exceed seventy-five thousand dollars, two hundred twenty-five dollars; if the capital stock is more than seventy-five thousand dollars but does not exceed one hundred thousand dollars, three hundred dollars; and if the capital stock is over one hundred thousand dollars, three dollars additional for each one thousand dollars in excess of one hundred thousand dollars. For purposes of computing this fee, the capital stock of a corporation organized under the laws of any other state that domesticates in this state, and which stock does not have a par value, shall be deemed to have a par value of an amount per share equal to the amount paid in as capital for each of such shares as are then issued and outstanding, and in no event less than one dollar per share;

(4) For recording articles of association or incorporation, amendments, revised or restated articles, changes of registered office or registered agent, increase or decrease of capital stock, merger or consolidation, statement of intent to dissolve, and consent to dissolution, revocation of dissolution, articles of dissolution, domestic or foreign, profit or nonprofit, five dollars per page;

(5) For receiving and filing articles of incorporation of corporations formed for religious, benevolent, or literary purposes, not for profit, conducting no business for profit, with no right to declare dividends and not mutual in character, or religious or secret societies, or societies or associations composed exclusively of any class of mechanics, express, telegraph, or other employees formed for mutual protection, and not for profit, and other nonprofit corporations organized under Chapter 21, ten dollars, plus recording fee;

(6) For filing certificate of increase of capital stock of any corporation for profit, association, or consolidation, domestic or foreign, fifteen dollars, and three dollars for each one thousand dollars of increase of capital stock so certified, plus recording fee;

(7) For filing certificate of decrease of capital stock of any corporation for profit, thirty dollars, plus recording fee;

(8) For filing decree of court changing the name of any corporation or association, thirty dollars, plus recording fee;

(9) For filing amendment to articles of incorporation of any corporation for profit, twenty-five dollars, plus recording fee;

(10) For issuing license, ten dollars;

(11) For filing amendment to articles of incorporation of nonprofit corporation, five dollars, plus recording fee;

(12) For taking acknowledgment, ten dollars;

(13) For administering oath, ten dollars;

(14) For reservation of name, twenty dollars;

(15) For transfer of reserved name, twenty dollars;

(16) For registration of name, twenty-five dollars;

(17) For renewal of registered name, twenty-five dollars;

(18) For change of registered agent or registered office for domestic or foreign corporations, or both, twenty dollars, plus recording fee;

(19) For change of registered agent or registered office for nonprofit corporations, or both, filing, five dollars, plus recording fee;

(20) Fee for filing regarding shares divided and issued into series, revised articles, restated articles, statement of redeemable shares or shares other than redeemable, merger, consolidation, statement of intent to dissolve and consent to dissolution, revocation of dissolution and articles of dissolution of any corporation for profit shall be twenty dollars, plus recording fee;

(21) Fee for filing notice of merger or consolidation, or articles of dissolution for nonprofit corporations shall be five dollars, plus recording fee;

(22) Fee for filing certificates pertaining to foreign corporations regarding mergers, consolidation, and existence, twenty dollars, plus recording fee;

(23) Fee for filing foreign application for certificate of authority, one hundred twenty-five dollars, plus recording fee;

(24) Fee for filing foreign amended application for certificate of authority, twenty dollars, plus recording fee;

(25) Fee for filing withdrawal of a foreign corporation, twenty dollars, plus recording fee; and

(26) For filing a change of street address in any city or village in this state of the registered office of any registered agent, who serves as

registered agent for more than one corporation, seventy-five dollars, plus recording fee.

The fees for filing articles of association, incorporation, or consolidation, domestic or foreign, shall be based on the authorized capital stock. All fees set forth in this section shall be paid to the Secretary of State and by him or her remitted to the State Treasurer for credit to the General Fund, except that domestic and foreign corporate filing fees shall be credited two-thirds to the General Fund and one-third to the Corporation Cash Fund.

Commencing on January 1, 1996, corporations subject to the Business Corporation Act shall pay the fees as set forth in section 21-2005.

Commencing on January 1, 1997, nonprofit corporations subject to the Nebraska Nonprofit Corporation Act shall pay the fees as set forth in section 5 of this act.

Sec. 195. Section 44-3312, Revised Statutes Supplement, 1995, is amended to read:

44-3312. (1) Two or more persons may organize a legal service insurance corporation under this section.

(2) The articles of incorporation of a not-for-profit corporation shall conform to the requirements applicable to not-for-profit corporations under the Nebraska Nonprofit Corporation Act ~~Nebraska Nonprofit Corporation Act~~ and the articles of incorporation of a corporation for profit shall conform to the requirements applicable to corporations for profit under the Business Corporation Act, except that:

(a) The name of the corporation shall indicate that legal services or indemnity for legal services is to be provided;

(b) The purposes of the corporation shall be limited to providing legal services or indemnity for legal expenses and business reasonably related thereto;

(c) The articles shall state whether members or other providers of services may be required to share operating deficits, either through assessments or through reductions in the compensation for services rendered. They shall also state the general conditions and procedures for deficit sharing and any limits on the amount of the deficit to be assumed by each individual member or provider;

(d) For corporations having members, the articles shall state the conditions and procedures for acquiring membership and that only members have the right to vote; and

(e) For corporations not having members, the articles shall state how the directors are to be selected.

Sec. 196. Section 44-3812, Revised Statutes Supplement, 1995, is amended to read:

44-3812. (1) Two or more persons may organize a prepaid dental service corporation under this section.

(2) The articles of incorporation of the corporation shall conform to the requirements of the Nebraska Nonprofit Corporation Act ~~Nebraska Nonprofit Corporation Act~~ or to the requirements of the Business Corporation Act, except that:

(a) The name of the corporation shall indicate that dental services are to be provided;

(b) The purposes of the corporation shall be limited to providing dental services and business reasonably related thereto;

(c) The articles shall state whether members, shareholders, or providers of services may be required to share operating deficits, either through assessments or through reductions in compensation for services rendered, the general conditions and procedures for deficit sharing, and any limits on the amount of the deficit to be assumed by each individual member, shareholder, or provider;

(d) For corporations having members, the articles shall state the conditions and procedures for acquiring membership and that only members have the right to vote; and

(e) For corporations not having members, the articles shall state how the directors are to be selected.

Sec. 197. Section 44-4002, Reissue Revised Statutes of Nebraska, is amended to read:

44-4002. For purposes of the Insurance Producers Licensing Act, unless the context otherwise requires:

(1) Appointment shall mean written notification to the department by an insurance company that it will accept applications for insurance from a licensed agent named in such notification;

(2) Broker shall be defined as provided in section 44-103;

(3) Department shall mean the Department of Insurance;

(4) Director shall mean the Director of Insurance;
 (5) Insurance agent or agent shall be defined as provided in section 44-103;

(6) Insurance agency shall mean any partnership, limited liability company, unincorporated association, or corporation transacting or doing business with the public or insurance companies as an insurance agent or broker;

(7) License or insurance license shall mean any agent's license, broker's license, or insurance agency's license; and

(8) Person shall mean any individual, corporation, partnership, limited liability company, or other entity.

Sec. 198. Section 67-301, Reissue Revised Statutes of Nebraska, is amended to read:

67-301. Sections 67-301 to 67-343 and sections 212 to 214 of this act shall be known and may be cited as the Uniform Partnership Act.

Sec. 199. Section 67-302, Revised Statutes Supplement, 1994, is amended to read:

67-302. In the Uniform Partnership Act:
 Court includes every court and judge having jurisdiction in the case.

Business includes every trade, occupation, or profession.
 Person includes individuals, partnerships, limited liability companies, corporations, and other associations.

Bankrupt includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvent act.

Conveyance includes every assignment, lease, mortgage, or encumbrance.

Real property includes land and any interest or estate in land.

(1) Bankrupt includes bankrupt under the Federal Bankruptcy Act or insolvent under any state insolvency law;

(2) Business includes every trade, occupation, or profession;

(3) Conveyance includes every assignment, lease, mortgage, or encumbrance;

(4) Court includes every court and judge having jurisdiction in the case;

(5) Foreign limited liability partnership means a limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of such jurisdiction;

(6) Foreign registered limited liability partnership means a foreign limited liability partnership registered under section 212 of this act and complying with section 213 of this act;

(7) Person includes individuals, partnerships, limited liability companies, corporations, and other associations;

(8) Real property includes land and any interest or estate in land;

(9) Registered limited liability partnership means a partnership formed pursuant to an agreement governed by the laws of this state, registered under section 212 of this act, and complying with section 213 of this act; and

(10) Words denoting the masculine gender in the act also include similar words of the feminine gender.

Sec. 200. Section 67-303, Reissue Revised Statutes of Nebraska, is amended to read:

67-303. (1) A person has knowledge of a fact, within the meaning of sections 67-301 to 67-343 the Uniform Partnership Act, not only when he or she has actual knowledge thereof and when he or she has knowledge of such other facts as in the circumstances show bad faith, but also when he or she has knowledge, or under the circumstances should have had knowledge, of such facts as give rise to a duty of inquiry, which inquiry, if made, would have disclosed the facts to him or her.

(2) A person has notice of a fact within the meaning of sections 67-301 to 67-343 the act when the person who claims the benefit of the notice:

(a) States the fact to such person; or

(b) Delivers through the mail, or by other means of communications, a written statement of the fact to such person or to a proper person at his or her place of business or residence.

Sec. 201. Section 67-304, Reissue Revised Statutes of Nebraska, is amended to read:

67-304. (1) The rules that statutes in derogation of the common law are to be strictly construed shall have no application to sections 67-301 to 67-343 the Uniform Partnership Act.

(2) The law of estoppel shall apply under sections 67-301 to 67-343 the act.

(3) The law of agency shall apply under sections 67-301 to 67-343

the act.

(4) Sections 67-301 to 67-343 ~~The act~~ shall be interpreted and construed in harmony with the entity theory of partnership. ~~In 7~~ ~~Provided, in~~ all matters of interpretation and construction of sections 67-301 to 67-343, ~~the act~~ which do not involve the entity theory of partnership, ~~sections 67-301 to 67-343~~ ~~the act~~ shall be so interpreted and construed as to make uniform the law of those states which have enacted or hereafter may enact ~~them~~ ~~the act~~.

(5) Sections 67-301 to 67-343 ~~The act~~ shall not be construed so as to impair the obligations of any contract existing when sections 67-301 to 67-343 ~~go~~ ~~the act goes~~ into effect, nor to effect any action or proceedings begun or right accrued before sections 67-301 to 67-343 ~~take~~ ~~the act takes~~ effect.

Sec. 202. Section 67-305, Reissue Revised Statutes of Nebraska, is amended to read:

67-305. In any case not provided for in sections 67-301 to 67-343 ~~the Uniform Partnership Act~~, the rules of law and equity, including the law merchant, shall govern.

Sec. 203. Section 67-306, Reissue Revised Statutes of Nebraska, is amended to read:

67-306. (1) A partnership is an association of persons organized as a separate entity to carry on a business for profit and includes, for all purposes of the laws of this state, a registered limited liability partnership. ~~Nothing in the Uniform Partnership Act is intended to restrict or limit in any manner the authority and duty of any regulatory body licensing professionals within the state to license such individuals rendering professional services or to regulate the practice of any profession that is within the jurisdiction of the regulatory body licensing such professionals within the state notwithstanding that the person is a partner of a registered limited liability partnership and rendering professional services or engaging in the practice of the profession through a registered limited liability partnership.~~

(2) ~~But any~~ Any association formed under any other statute of this state, or any statute adopted by authority, other than the authority of this state, is not a partnership under sections 67-301 to 67-343 ~~the act~~, unless ~~such~~ the association would have been a partnership in this state prior to the adoption of sections 67-301 to 67-343 ~~the act~~; but ~~such other statutes~~ shall apply to limited partnerships except ~~insofar as the such other statutes~~ relating to such partnerships ~~associations~~ are inconsistent herewith with the act.

(3) ~~A limited liability partnership is a syndicate for purposes of Article XII, section 8, of the Constitution of Nebraska, except that a registered limited liability partnership in which the partners are members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, or their spouses, at least one of whom is a person residing on or actively engaged in the day-to-day labor and management of the farm or ranch and none of whom are nonresident aliens, is not a syndicate for purposes of Article XII, section 8, of the Constitution of Nebraska.~~

Sec. 204. Section 67-311, Reissue Revised Statutes of Nebraska, is amended to read:

67-311. An admission or representation made by any partner concerning partnership affairs within the scope of his or her authority as conferred by sections 67-301 to 67-343 ~~the Uniform Partnership Act~~ is evidence against the partnership.

Sec. 205. Section 67-315, Reissue Revised Statutes of Nebraska, is amended to read:

67-315. ~~All~~ (1) Except as provided in subsection (2) of this section, all partners are liable:

(a) Jointly and severally for everything chargeable to the partnership under sections 67-313 and 67-314; and

(b) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract.

(2) Subject to subsection (3) of this section, a partner in a registered limited liability partnership is not liable directly or indirectly, including by way of indemnification, contribution, assessment, or otherwise, for debts, obligations, and liabilities of or chargeable to the partnership or another partner or partners, whether in tort, contract, or otherwise, arising from omissions, negligence, wrongful acts, misconduct, or malpractice performed or committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(3) Subsection (2) of this section shall not affect the liability of a partner in a registered limited liability partnership for his or her own omissions, negligence, wrongful acts, misconduct, or malpractice or that of any person under the direct supervision and control of the partner.

(4) A partner in a registered limited liability partnership is not a proper party to a proceeding by or against a registered limited liability partnership if the object of the proceeding is to recover damages or enforce the obligations arising out of the omissions, negligence, wrongful acts, misconduct, or malpractice of the type described in subsection (2) of this section unless the partner is personally liable under subsection (3) of this section.

Sec. 206. Section 67-318, Reissue Revised Statutes of Nebraska, is amended to read:

67-318. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(a) Each partner shall be repaid his or her contributions, whether by way of capital or advances to the partnership property, and shall share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied. Except as provided in subsection (2) of section 67-315, each partner and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his or her share in the profits; -

(b) The partnership must indemnify every partner in with respect of to payments made and personal liabilities reasonably incurred by him or her in the ordinary and proper conduct of its business, or for the preservation of its business or property; -

(c) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he or she agreed to contribute, shall be paid interest from the date of the payment or advance; -

(d) A partner shall receive interest on the capital contributed by him or her only from the date when repayment should be made; -

(e) All partners have equal rights in the management and conduct of the partnership business; -

(f) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his or her services in winding up the partnership affairs; -

(g) No person can become a member of a partnership without the consent of all the partners; and -

(h) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; and but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners.

Sec. 207. Section 67-325, Reissue Revised Statutes of Nebraska, is amended to read:

67-325. (1) A partner is co-owner with his or her partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of sections 67-301 to 67-343 the Uniform Partnership Act and to any agreement between the partners, has an equal right with his or her partners to possess specific partnership property for partnership purposes; and but he or she has no right to possess such the property for any other purpose without the consent of his or her partners; -

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property; -

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws; -

(d) On the death of a partner, his or her right to specific partnership property vests in the surviving partner or partners who, in case there are more than one, continue to hold as tenants in partnership until the termination of the partnership, except where the deceased was the last surviving partner, in which event his or her right in such the property vests in his or her legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any purpose but a partnership purpose; -

(e) A partner's right in specific partnership property is not

subject to dower, curtesy, or allowances to widows, widowers, heirs, or next of kin; and -

(f) Where If the partnership is dissolved by the death of a partner and real property acquired and held in the partnership name is not conveyed in the winding up of the partnership affairs or in order to provide a cash surplus, in accordance with paragraph subsection (1) of section 67-338, then upon the termination of the partnership, as provided in section 67-330, title to any such real property not theretofore conveyed by the partnership shall vest vests in the surviving partners and the heirs or devisees of any deceased partner or partners as tenants in common. PROVIDED, HOWEVER, that during During the administration of the estate of any deceased partner, the legal representative of the deceased partner, as between him or her and the heirs or devisees of the deceased partner, shall have has the sole power to convey the interests of the heirs or devisees in any such of the real property, the interest of the deceased partner being deemed personal property, in accordance with section 67-326, during such the administration.

Sec. 208. Section 67-328, Reissue Revised Statutes of Nebraska, is amended to read:

67-328. (1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such the judgment debt with interest thereon; and may then or later appoint a receiver of his or her share of the profits, and of any other money due or to fall due to him or her in respect of the partnership, and make all other orders, directions, accounts, and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court, may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners; or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in sections 67-301 to 67-343 the Uniform Partnership Act shall be held to deprive a partner of his or her right, if any, under the exemption laws, as regards his or her interest in the partnership.

Sec. 209. Section 67-334, Reissue Revised Statutes of Nebraska, is amended to read:

67-334. Where When the dissolution is caused by the act, death, or bankruptcy of a partner, each partner is liable to his or her copartners for his or her share of any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(a) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution; or

(b) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy; or

(c) The liability is for a debt, obligation, or liability for which the partner is not liable as provided in subsection (2) of section 67-315.

Sec. 210. Section 67-336, Reissue Revised Statutes of Nebraska, is amended to read:

67-336. (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself or herself, the partnership creditor, and the person or partnership continuing the business. Such an and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where When a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be are discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such the obligations.

(4) The individual property of a deceased partner shall be liable for all those obligations of the partnership incurred while he or she was a partner and for which he or she was liable under section 67-315, but subject to the prior payment of his or her separate debts.

Sec. 211. Section 67-340, Reissue Revised Statutes of Nebraska, is amended to read:

67-340. In settling accounts between the partners after

dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(a) The assets of the partnership are:
 (I) The partnership property; and γ
 (II) The contributions of the partners necessary for the payment of all the liabilities specified in clause (b) subdivision (d) of this paragraph section; γ

(b) The liabilities of the partnership shall rank in order of payment as follows:

(I) Those owing to creditors other than partners; γ
 (II) Those owing to partners other than for capital and profits; γ
 (III) Those owing to partners in respect of capital; and γ
 (IV) Those owing to partners in respect of profits; γ
 (c) The assets of the partnership shall be applied in the order of their declaration in clause subdivision (a) of this paragraph section to the satisfaction of the liabilities; γ

(d) Except as provided in subsection (2) of section 67-315:

(I) The partners shall contribute, as provided by paragraph subdivision (a) of section 67-318, the amount necessary to satisfy the liabilities; and

(II) If but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities; γ

(e) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contributions specified in clause subdivision (d) of this paragraph section;

(f) Any partner or his or her legal representative shall have the right to enforce the contributions specified in clause subdivision (d) of this paragraph section, to the extent of the amount which he or she has paid in excess of his or her share of the liability; γ

(g) The individual property of a deceased partner shall be liable for the contributions specified in clause subdivision (d) of this paragraph section;

(h) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property saving the rights of lien or secured creditors; and as heretofore.

(i) Where if a partner has become bankrupt or his or her estate is insolvent, the claims against his or her separate property shall rank in the following order:

(I) Those owing to separate creditors; γ
 (II) Those owing to partnership creditors; and γ
 (III) Those owing to partners by way of contribution.

Sec. 212. (1) To become registered as and to continue to be registered as a registered limited liability partnership or a foreign registered limited liability partnership, a partnership shall file with the Secretary of State an application stating:

(a) The name of the partnership;
 (b) The address of its principal office;
 (c) The street address of its registered office and the name and street address of a registered agent for service of process in this state;

(d) The state or other jurisdiction or country in which the partnership is registered as a limited liability partnership and the date of its registration if the applicant is a foreign limited liability partnership;

(e) A brief statement of the business in which the partnership engages;

(f) Other matters that the partnership determines to include; and

(g) That the partnership applies for registration as a registered limited liability partnership or foreign registered limited liability partnership.

(2) The application for registration shall be executed by a majority in interest of the partners or by one or more partners authorized by a partnership agreement, power of attorney, or otherwise to execute the application for registration. Powers of attorney relating to the signing by an attorney in fact of the application or other limited liability partnership documents filed with the Secretary of State do not need to be sworn to, verified, or acknowledged and the powers of attorney do not need to be filed with the Secretary of State but may be retained by the person or persons exercising the powers of attorney.

(3) The filing fee for the filing of an application for registration as a registered limited liability partnership or foreign registered limited liability partnership is two hundred dollars plus the recording fees specified in subdivision (4) of section 33-101. The filing fee for all other filings by limited liability partnerships pursuant to the Uniform Partnership Act is ten dollars plus recording fees. A fee of one dollar per page shall be paid for a certified copy of any document on file pursuant to the act. The filing fees pursuant to the act shall be paid to the Secretary of State and remitted to the State Treasurer. The State Treasurer shall credit fifty percent of the fees to the General Fund and fifty percent of the fees to the Corporation Cash Fund.

(4) The Secretary of State shall register as a registered limited liability partnership any partnership formed and existing under the Uniform Partnership Act that submits a completed application for registration as a registered limited liability partnership with the required fee and shall register as a foreign registered limited liability partnership any foreign limited liability partnership that submits a completed application for registration as a foreign registered limited liability partnership with the required fee.

(5) An application for registration is amended by filing an application for amendment with the Secretary of State. The application for amendment shall be executed by a majority in interest of the partners or by one or more partners authorized to execute the amendment. An amendment is effective at the time the application for amendment is filed. The application shall state (a) the name of the limited liability partnership, (b) the date of filing the amendment, and (c) the amendment to the application. The amendment shall be filed within ninety days after a change in the information listed in subsection (1) of this section.

(6) A registration is effective at the time the application for registration is filed and remains effective until the registration is voluntarily withdrawn. A registration is withdrawn (a) by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one or more partners authorized to execute a withdrawal notice or (b) thirty days after receipt by the partnership of a notice from the Secretary of State, which notice shall be sent by certified mail, return receipt requested, that the partnership has failed to make timely payment of the fees specified in subsection (3) of this section, unless the fee is paid within such thirty-day period.

(7) A partnership formed and existing under the Uniform Partnership Act becomes a registered limited liability partnership or a foreign limited liability partnership becomes registered on the date of filing if there has been substantial compliance with the requirements of this section. The status of a partnership formed and existing under the Uniform Partnership Act as a registered limited liability partnership or the registration of a foreign limited liability partnership and the liability of the partners thereof is not affected by errors or subsequent changes in the information in the registration.

(8) The Secretary of State may provide forms for the application for registration as registered limited liability partnerships or foreign limited liability partnerships pursuant to this section.

(9) Foreign limited liability partnerships may do business in this state but are required to be registered with the Secretary of State pursuant to the Uniform Partnership Act.

Sec. 213. (1) The name of a registered limited liability partnership or a foreign registered limited liability partnership:

(a) Shall contain the words "registered limited liability partnership" or the abbreviations "L.L.P." or "LLP" as the last words or letters of the limited liability partnership's name or, in the case of a foreign registered limited liability partnership, may contain similar words or abbreviations as may be required or authorized by the laws of the jurisdiction under which the foreign limited liability partnership is formed and registered, as the last words or letters of the foreign limited liability partnership's name; and

(b) Shall be distinguishable upon the records in the office of the Secretary of State from the name of any corporation, limited liability company, limited partnership, or limited liability partnership reserved, registered, or organized under the laws of this state or qualified to do business or registered as a foreign corporation, foreign limited liability company, foreign limited partnership, or foreign registered limited liability partnership in this state.

(2) A limited liability partnership may register under any name which is not distinguishable upon the records in the office of the Secretary

of State from the name of any domestic or foreign corporation, limited liability company, limited partnership, or registered limited liability partnership reserved, registered, or organized under the laws of this state with the written consent of the other corporation, limited liability company, limited partnership, or registered limited liability partnership or with the transfer of the name by the other corporation, limited liability company, limited partnership, or registered limited liability partnership. Written consent to the use of the name or written consent to the transfer of the name shall be filed with the Secretary of State.

Sec. 214. (1) A partnership, including a registered limited liability partnership, formed and existing under the Uniform Partnership Act may conduct its business, carry on its operations, and have and exercise the powers granted by the act in any state, territory, district, or possession of the United States or in any foreign country.

(2) It is the intent of the Legislature that the legal existence of registered limited liability partnerships formed and existing under the act be recognized outside the boundaries of this state and that the laws of this state governing the registered limited liability partnerships transacting business outside this state be granted the protection of full faith and credit under the Constitution of the United States.

(3) It is the policy of this state that the internal affairs of a partnership, including registered limited liability partnerships, formed and existing under the act, including the liability of partners for debts, obligations, and liabilities of or chargeable to the partnership or another partner or partners, be subject to and governed by the laws of this state.

(4) It is the policy of this state that the internal affairs of a foreign limited liability partnership, including the liability of partners for the debts, obligations, and liabilities of or chargeable to the foreign limited liability partnership or another partner or partners, be subject to and governed by the laws of the jurisdiction under which the foreign limited liability partnership is formed and registered.

(5) Notwithstanding subsection (4) of this section, the failure of a foreign limited liability partnership to file an application for registration or to appoint and maintain a registered agent in this state shall not affect the liability of the partners or impair the validity of any contract or act of the foreign limited liability partnership and shall not prevent the foreign limited liability partnership from defending any action or proceeding in any court of this state, but the foreign limited liability partnership shall not maintain any action or proceeding in any court of this state until it has filed an application for registration. A foreign limited liability partnership, by transacting business in this state without filing an application for registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

Sec. 215. Sections 1 to 180, 182, 193, 196, 217, and 220 of this act become operative on January 1, 1997. Sections 183 to 187, 192, 197 to 214, and 219 of this act become operative three calendar months after the adjournment of this legislative session. The other sections of this act become operative on their effective date.

Sec. 216. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 217. Original sections 21-1101 and 21-17,132, Reissue Revised Statutes of Nebraska, and sections 8-1401, 21-2317, 23-3504, 33-101, 44-3312, and 44-3812, Revised Statutes Supplement, 1995, are repealed.

Sec. 218. Original sections 21-2631 to 21-2631.03, Revised Statutes Supplement, 1994, and section 21-2048, Revised Statutes Supplement, 1995, are repealed.

Sec. 219. Original sections 44-4002, 67-301, 67-303, 67-304, 67-305, 67-306, 67-311, 67-315, 67-318, 67-325, 67-328, 67-334, 67-336, and 67-340, Reissue Revised Statutes of Nebraska, and sections 21-2602, 21-2619, 21-2621, 21-2622, 21-2628, 21-2649, and 67-302, Revised Statutes Supplement, 1994, are repealed.

Sec. 220. The following sections are outright repealed: 21-1901 to 21-1903, 21-1905 to 21-1989, 21-1991, 21-1996 to 21-19,106, and 21-19,109, Reissue Revised Statutes of Nebraska, section 21-1904, Revised Statutes Supplement, 1994, and sections 21-19,107 and 21-19,108, Revised Statutes Supplement, 1995.

Sec. 221. Since an emergency exists, this act takes effect when passed and approved according to law.