

## LEGISLATIVE BILL 1073

Approved by the Governor April 14, 1998

Introduced by Health and Human Services Committee: Wesely, 26, Chairperson;  
Dierks, 40; Jensen, 20; Matzke, 47; Suttle, 10; Thompson, 14

AN ACT relating to public health and welfare; to amend sections 14-402, 15-902, 19-902, 20-139, 20-319, 23-114, 25-2908, 43-255, 43-256, 43-274, 43-275, 43-276, 43-279, 68-1016 to 68-1017.01, 68-1019, 71-1,147.35, 71-1,147.39, 71-1,147.40, 71-1,147.42 to 71-1,147.46, 71-1,147.48 to 71-1,147.51, 71-1,147.53 to 71-1,147.61, 71-519, 71-522, 71-1555, 71-1557 to 71-1563, 71-1565 to 71-1567, 71-1913.01, 71-1913.03, 71-2048.01, 71-3410, 71-4601, 71-4603, 71-4604, 71-4604.01, 71-4606, 71-4608 to 71-4620, 71-5402 to 71-5404, 71-5647, 71-5649, 71-5653, 71-5655, 71-5656, 71-5678, 71-7409, 71-7416, 79-219, 81-5,147 to 81-5,149, 81-657, 81-658, 83-473, 83-4,101, 83-4,102, 83-4,104, and 83-925.01, Reissue Revised Statutes of Nebraska, sections 28-405, 43-246, 43-253, 43-258, 43-281, 43-286, 43-905, 43-1320, 81-1316, 81-3004, 83-472, 83-925.02, and 83-925.12, Revised Statutes Supplement, 1996, and sections 29-2204, 43-245, 43-250, 43-251, 43-2,129, 43-536, 43-2624, 48-647, 68-1070, 71-1,142, 71-1,147.41, 71-520, 71-523, 71-604.05, 71-1564, 71-1913.02, 71-2017.01, 71-2024, 71-20,117, 71-2610.01, 71-3406, 71-5176, 71-5184, 83-107.01, 83-901, 83-925.06, 83-925.07, and 83-925.13, Revised Statutes Supplement, 1997; to change provisions relating to manufactured homes, housing standards, controlled substances, juvenile justice, child care reimbursement and program grants, food stamps, medical assistance, pharmacy and drug product selection, drug dispensing and distributing, metabolic diseases, birth certificates, modular housing units, immunization reporting, home health agencies, hospital clinical privileges, assisted-living facilities, emergency care providers, the State Child Death Review Team, rural health services, the brain injury registry, state personnel system provisions, and a health and human services system report; to provide for juvenile offender and victim mediation in certain cases, self-insurance of foster parent programs, petty cash funds, permits for dialysis drug or device distributors, credentialing of certain facilities, and access to the state health insurance program; to adopt the Health and Human Services, Office of Juvenile Services Act; to provide and change penalty provisions; to create funds; to create a task force and provide for a study; to change and transfer regulatory duties; to eliminate provisions relating to juvenile justice and rubella immunizations; to harmonize provisions; to provide operative dates; to repeal the original sections; to outright repeal sections 83-465, 83-467 to 83-471, 83-473.01, 83-474.01, 83-487, 83-4,103, 83-925.04, and 83-925.08 to 83-925.11, Reissue Revised Statutes of Nebraska, sections 42-121, 43-287, and 83-925.03, Revised Statutes Supplement, 1996, and section 83-925.05, Revised Statutes Supplement, 1997; and to declare an emergency.

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

Section 1. Section 14-402, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2)(a) The city council shall not adopt or enforce any zoning ordinance or regulation which prohibits the use of land for a proposed residential structure for the sole reason that the proposed structure is a manufactured home if such manufactured home bears an appropriate seal which indicates that it was constructed in accordance with the standards of the Department of Health and Human Services Regulation and Licensure Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska

Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development. The city council may require that a manufactured home be located and installed according to the same standards for foundation system, permanent utility connections, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. The city council may also require that manufactured homes meet the following standards:

- (i) The home shall have no less than nine hundred square feet of floor area;
  - (ii) The home shall have no less than an eighteen-foot exterior width;
  - (iii) The roof shall be pitched with a minimum vertical rise of two and one-half inches for each twelve inches of horizontal run;
  - (iv) The exterior material shall be of a color, material, and scale comparable with those existing in residential site-built, single-family construction;
  - (v) The home shall have a nonreflective roof material which is or simulates asphalt or wood shingles, tile, or rock; and
  - (vi) The home shall have wheels, axles, transporting lights, and removable towing apparatus removed.
- (b) The city council may not require additional standards unless such standards are uniformly applied to all single-family dwellings in the zoning district.

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

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

Sec. 2. Section 15-902, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

a site-built, single-family dwelling on the same lot. The city may also require that manufactured homes meet the following standards:

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

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

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

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

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

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

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

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

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

Sec. 3. Section 19-902, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 4. Section 20-139, Reissue Revised Statutes of Nebraska, is amended to read:

20-139. The Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143 shall be administered by the Equal Opportunity Commission, except that the State Fire Marshal shall administer the act and sections as they relate to accessibility standards and specifications set forth in sections 81-5,147 to 81-5,149. The county attorneys are granted the authority to enforce such act and sections 20-123, 20-124, and 20-132 to 20-143 and shall possess the same powers and duties with respect thereto as the commission. If a complaint is filed with the county attorney, the commission shall be notified. Powers granted to and duties imposed upon the commission pursuant to such act and sections shall be in addition to the provisions of the Nebraska Fair Employment Practice Act and shall not be construed to amend or restrict those provisions. In carrying out the Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143, the commission shall have the power to:

(1) Seek to eliminate and prevent discrimination in places of public accommodation because of race, color, sex, religion, national origin, familial status as defined in section 20-311, handicap as defined in section 20-313, or ancestry;

(2) Effectuate the purposes of sections 20-132 to 20-143 by conference, conciliation, and persuasion so that persons may be guaranteed their civil rights and goodwill may be fostered;

(3) Formulate policies to effectuate the purposes of sections 20-132 to 20-143 and make recommendations to agencies and officers of the state or local subdivisions of government in aid of such policies and purposes;

(4) Adopt and promulgate rules and regulations to carry out the powers granted by the Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143, subject to the provisions of the Administrative Procedure Act. The commission shall, not later than one hundred eighty days after September 6, 1991, issue draft rules and regulations to implement subsection (3) of section 20-336, which regulations may incorporate regulations of the Department of Housing and Urban Development as applicable;

(5) Designate one or more members of the commission or a member of the commission staff to conduct investigations of any complaint alleging discrimination because of race, color, sex, religion, national origin, familial status, handicap, or ancestry, attempt to resolve such complaint by conference, conciliation, and persuasion, and conduct such conciliation meetings and conferences as are deemed necessary to resolve a particular complaint, which meetings shall be held in the county in which the complaint arose;

(6) Determine that probable cause exists for crediting the allegations of a complaint;

(7) Determine that a complaint cannot be resolved by conference, conciliation, or persuasion, such determination to be made only at a meeting where a quorum is present;

(8) Dismiss a complaint when it is determined there is not probable cause to credit the allegations;

(9) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath, and in connection therewith require for examination any books or papers relating to any matter under investigation or in question before the commission; and

(10) Issue publications and the results of studies and research which will tend to promote goodwill and minimize or eliminate discrimination because of race, color, sex, religion, national origin, familial status, handicap, or ancestry.

Sec. 5. Section 20-319, Reissue Revised Statutes of Nebraska, is amended to read:

20-319. (1) Except as exempted by section 20-322, it shall be unlawful to:

(a) Discriminate in the sale or rental of or otherwise make unavailable or deny a dwelling to any buyer or renter because of a handicap of:

(i) The buyer or renter;

(ii) Any person associated with the buyer or renter; or

(iii) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available; or

(b) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling or in the provision of services or facilities in connection with a dwelling because of a handicap of:

(1) Such person;

(ii) Any person associated with such person; or

(iii) A person residing in or intending to reside in the dwelling after it is so sold, rented, or made available.

(2) For purposes of this section, discrimination shall include:

(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by the person if the modifications may be necessary to afford the person full enjoyment of the premises, except that in the case of a rental, the landlord may, when it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted;

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services when such accommodations may be necessary to afford the handicapped person equal opportunity to use and enjoy a dwelling; and

(c) In connection with the design and construction of covered multifamily dwellings for first occupancy after September 1, 1991, a failure to design and construct the dwellings in such a manner that:

(i) The public use and common use portions of the dwellings are readily accessible to and usable by handicapped persons;

(ii) All the doors designed to allow passage into and within all premises within the dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

(iii) All premises within the dwellings contain the following features of adaptive design:

(A) An accessible route into and through the dwelling;

(B) Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

(C) Reinforcements in bathroom walls to allow later installation of grab bars; and

(D) Kitchens and bathrooms such that a handicapped person in a wheelchair can maneuver about the space.

(3) Compliance with the appropriate requirements of the American National Standards Institute standard for buildings and facilities providing accessibility and usability for physically handicapped people, ANSI A117.1, shall satisfy the requirements of subdivision (2)(c)(iii) of this section.

(4) (a) If a political subdivision has incorporated into its laws the design and construction requirements set forth in subdivision (2)(c) of this section, compliance with such laws shall be deemed to satisfy the requirements.

(b) A political subdivision may review and approve newly new constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements are met.

(c) The commission shall encourage but may not require political subdivisions to include in their existing procedures for the review and approval of newly new constructed covered multifamily dwellings determinations as to whether the design and construction of the dwellings are consistent with the design and construction requirements and shall provide technical assistance to political subdivisions and other persons to implement the requirements.

(d) Nothing in this section shall be construed to require the commission to review or approve the plans, designs, or construction of all covered multifamily dwellings to determine whether the design and construction of the dwellings are consistent with the design and construction requirements.

(5) (a) Nothing in subsection (4) of this section shall be construed to affect the authority and responsibility of the commission or a local agency certified pursuant to section 20-332 to receive and process complaints or

otherwise engage in enforcement activities under the Nebraska Fair Housing Act.

(b) Determinations by the commission or a political subdivision under subdivision (4)(a) or (b) of this section shall not be conclusive in enforcement proceedings under the act.

(6) For purposes of this section, covered multifamily dwellings shall mean:

(a) Buildings consisting of four or more units if such buildings have one or more elevators; and

(b) Ground floor units in other buildings consisting of four or more units.

(7) Nothing in this section shall be construed to invalidate or limit any law of a political subdivision or other jurisdiction in which this section is effective that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this section.

(8) Nothing in this section shall require that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Sec. 6. Section 23-114, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

(4) For purposes of this section, manufactured home shall mean (a) a factory-built structure which is to be used as a place for human habitation,

which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in section 71-1557 bearing the seal of the Department of Health and Human Services Regulation and licensure in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.

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

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

Sec. 7. Section 25-2908, Reissue Revised Statutes of Nebraska, is amended to read:

25-2908. Consistent with the purposes and objectives of the Dispute Resolution Act and in consultation with the council, the director shall:

- (1) Make information on the formation of centers available statewide and encourage the formation of centers;
- (2) Approve centers which meet requirements for approval;
- (3) Develop a uniform system of reporting and collecting statistical data from approved centers;
- (4) Develop a uniform system of evaluating approved centers;
- (5) Prepare a yearly budget for the implementation of the act and distribute funds to approved centers;
- (6) Develop guidelines for a sliding scale of fees to be charged by approved centers;
- (7) Develop curricula and initiate training sessions for mediators and staff of approved centers and of courts;
- (8) Establish volunteer training programs;
- (9) Promote public awareness of the dispute resolution process; and
- (10) Apply for and receive funds from public and private sources for carrying out the purposes and obligations of the act; and
- (11) Develop a uniform system to create and maintain a roster of mediators for juvenile offender and victim mediation, as provided in section 43-245, and centers approved under section 25-2909. The roster shall be made available to courts and county attorneys.

Sec. 8. Section 28-405, Revised Statutes Supplement, 1996, is amended to read:

28-405. The following are the schedules of controlled substances referred to in the Uniform Controlled Substances Act:

#### Schedule I

(a) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation: (1) Acetylmethadol; (2) allylprodine; (3) alphacetylmethadol, except levo-alpha-cetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM; (4) alphameprodine; (5) alphanethadol; (6) benzethidine; (7) betacetylmethadol; (8) betameprodine; (9) betamethadol; (10) betaprodine; (11) clonitazene; (12) dextromoramide; (13) difenoxin; (14) diampromide; (15) diethylthiambutene; (16) dimenoxadol; (17) dimepheptanol; (18) dimethylthiambutene; (19) dioxaphetyl butyrate; (20) dipipanone; (21) ethylmethylthiambutene; (22) etonitazene; (23) etoxeridine; (24) furethidine; (25) hydroxypethidine; (26) ketobemidone; (27) levomoramide; (28) levophenacilmorphan; (29) morpheridine; (30) noracetylmethadol; (31) norlevorphanol; (32) normethadone; (33) norpipanone; (34) dimenoxadol; (35) phenampromide; (36) phenomorphan; (37) phenoperidine; (38) piritramide; (39) proheptazine; (40) properidine; (41) propiram; (42) racemoramide; (43) trimeperidine; (44) alpha-methylfentanyl, N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl) propionanilide, 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine; (45) tilidine; (46) 3-Methylfentanyl, N-(3-methyl-1-(2-phenylethyl)-4-piperidyl)-N-phenylpropanamide, its optical and geometric isomers, salts, and salts of isomers; (47) 1-methyl-4-phenyl-4-propionoxypiperidine (MPPP), its optical isomers, salts, and salts of isomers; (48) 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (PEPAP), its optical isomers,

salts, and salts of isomers; (49) N-(1-(1-methyl-2-phenyl)ethyl-4-piperidyl)-N-phenylacetamide (acetyl-alpha-methylfentanyl), its optical isomers, salts, and salts of isomers; (50) N-(1-(1-methyl-2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (alpha-methylthiofentanyl), its optical isomers, salts, and salts of isomers; (51) N-(1-benzyl-4-piperidyl)-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts, and salts of isomers; (52) N-(1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl)-N-phenylpropanamide (beta-hydroxyfentanyl), its optical isomers, salts, and salts of isomers; (53) N-(3-methyl-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl)-N-phenylpropanamide (beta-hydroxy-3-methylfentanyl), its optical and geometric isomers, salts, and salts of isomers; (54) N-(3-methyl-1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (3-methylthiofentanyl), its optical and geometric isomers, salts, and salts of isomers; (55) N-(1-(2-thienyl)methyl-4-piperidyl)-N-phenylpropanamide (thienylfentanyl), its optical isomers, salts, and salts of isomers; (56) N-(1-(2-(2-thienyl)ethyl-4-piperidyl)-N-phenylpropanamide (thiofentanyl), its optical isomers, salts, and salts of isomers; and (57) N-(1-(2-phenylethyl)-4-piperidyl)-N-(4-fluorophenyl)-propanamide (para-fluorofentanyl), its optical isomers, salts, and salts of isomers.

(b) Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Acetorphine; (2) acetyldihydrocodeine; (3) benzylmorphine; (4) codeine methylbromide; (5) codeine-N-Oxide; (6) cyrenorphine; (7) desomorphine; (8) dihydromorphine; (9) drotebanol; (10) etorphine, except hydrochloride salt; (11) heroin; (12) hydromorphanol; (13) methyldesorphine; (14) methyl dihydromorphine; (15) morphine methylbromide; (16) morphine methylsulfonate; (17) morphine-N-Oxide; (18) myrophine; (19) nicocodeine; (20) nicomorphine; (21) normorphine; (22) pholcodine; and (23) thebacon.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and, for purposes of this subdivision only, isomer shall include the optical, position, and geometric isomers: (1) Bufotenine. Trade and other names shall include, but are not limited to: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; and mappine; (2) diethyltryptamine. Trade and other names shall include, but are not limited to: N, N-diethyltryptamine; and DET; (3) dimethyltryptamine. Trade and other names shall include, but are not limited to: DMT; (4) 4-bromo-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; and 4-bromo-2, 5-DMA; (5) 4-methoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methoxy-a-methyl-phenethylamine; and paramethoxyamphetamine, PMA; (6) 4-methyl-2, 5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; DOM; and STP; (7) 5-methoxy-N,N-dimethyltryptamine; (8) ibogaine. Trade and other names shall include, but are not limited to: 7-ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5H-pyrido (1', 2': 1, 2) azepino (5, 4-b) indole; and tabernanthe iboga; (9) lysergic acid diethylamide; (10) marijuana; (11) mescaline; (12) peyote. Peyote shall mean all parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant or its seeds or extracts; (13) psilocybin; (14) psilocyn; (15) tetrahydrocannabinols, including, but not limited to, synthetic equivalents of the substances contained in the plant or in the resinous extractives of cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: Delta 1 cis or trans tetrahydrocannabinol and their optical isomers, excluding dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the Food and Drug Administration; Delta 6 cis or trans tetrahydrocannabinol and their optical isomers; and Delta 3, 4 cis or trans tetrahydrocannabinol and its optical isomers. Since nomenclature of these substances is not internationally standardized, compounds of these structures shall be included regardless of the numerical designation of atomic positions covered; (16) 3, 4-methylenedioxy amphetamine; (17) 5-methoxy-3, 4-methylenedioxy amphetamine; (18) 3, 4, 5-trimethoxy amphetamine; (19) N-ethyl-3-piperidyl benzilate; (20) N-methyl-3-peperidyl benzilate; (21) thiophene analog of



phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-(2-thienyl)-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; and TCP; (22) 2,5-dimethoxyamphetamine. Trade and other names shall include, but are not limited to: 2,5-dimethoxy-a-methylphenethylamine; and 2,5-DMA; (23) hashish or concentrated cannabis; (24) Parahenyl. Trade and other names shall include, but are not limited to: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6, 9-trimethyl-6H-dibenzo(b,d)pyran; and synhexyl; (25) Ethylamine analog of phencyclidine. Trade and other names shall include, but are not limited to: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; and PCE; (26) Pyrrolidine analog of phencyclidine. Trade and other names shall include, but are not limited to: 1-(1-phenylcyclohexyl)-pyrrolidine; PCPy; and PHP; and (27) 3,4-methylenedioxyamphetamine (MDMA), its optical, positional, and geometric isomers, salts, and salts of isomers.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Mecloqualone; and (2) methaqualone.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers: (1) Fenethylamine; and (2) N-ethylamphetamine.

(f) Gamma hydroxy butyrate (GHB)

Schedule II

(a) Any of the following substances except those narcotic drugs listed in other schedules whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, buprenorphine, nalbuphine, nalmefene, naloxone, and naltrexone and their salts, but including the following: (i) Raw opium; (ii) opium extracts; (iii) opium fluid extracts; (iv) powdered opium; (v) granulated opium; (vi) tincture of opium; (vii) codeine; (viii) ethylmorphine; (ix) etorphine hydrochloride; (x) dihydrocodeinone which is also known as hydrocodone; (xi) hydromorphone; (xii) metopon; (xiii) morphine; (xiv) oxycodone; (xv) oxymorphone; and (xvi) thebaine;

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivision (1) of this subdivision, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, including cocaine and its salts, optical isomers, and salts of optical isomers, except that the substances shall not include decocainized coca leaves or extractions which do not contain cocaine or ecgonine; and

(5) Concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy.

(b) Unless specifically excepted or unless in another schedule any of the following opiates, including their isomers, esters, ethers, salts, and salts of their isomers, esters, and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted: (1) Alphaprodine; (2) anileridine; (3) bezitramide; (4) diphenoxylate; (5) fentanyl; (6) isomethadone; (7) levomethorphan; (8) levorphanol; (9) metazocine; (10) methadone; (11) methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane; (12) moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid; (13) pethidine or meperidine; (14) pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine; (15) pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate; (16) pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid; (17) phenazocine; (18) piminodine; (19) racemethorphan; (20) racemorphan; (21) dihydrocodeine; (22) bulk dextropropoxyphene in nondosage forms; (23) sufentanil; (24) alfentanil; and (25) levo-alpha-acetylmethadol which is also known as levo-alpha-acetylmethadol, levomethadyl acetate, and LAAM.

(c) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system: (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers; (2) phenmetrazine and its salts; (3) methamphetamine, its salts, isomers, and salts of its isomers; and (4) methylphenidate.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designations: (1) Amobarbital; (2) secobarbital; (3) pentobarbital; (4) phenacyclidine; and (5) glutethimide.

(e) Hallucinogenic substances known as: (1) Dronabinol, synthetic, in sesame oil and encapsulated in a soft gelatin capsule in a Food and Drug Administration approved drug product. Some other names for dronabinol are (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo(b,d)pyran-1-ol or (-)-delta-9-(trans)-tetrahydrocannabinol; and (2) nabilone. Another name for nabilone is (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo(b,d)pyran-9-one.

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances: (1) Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Trade and other names shall include, but are not limited to: Phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone; or (2) immediate precursors to phenacyclidine, PCP: (i) 1-phenylcyclohexylamine; or (ii) 1-piperidinocyclohexanecarbonitrile, PCC.

#### Schedule III

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Benzphetamine; (2) chlorphentermine; (3) chlortermine; and (4) phendimetrazine.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system: (1) Any substance which contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules of this section; (2) chlorhexadol; (3) lysergic acid; (4) lysergic acid amide; (5) methyprylon; (6) sulfondiethylmethane; (7) sulfonethylmethane; (8) sulfonmethane; (9) nalorphine; (10) any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule; (11) any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository; and (12) tiletamine and zolazepam or any salt thereof. Trade or other names for a tiletamine-zolazepam combination product shall include, but not be limited to: telazol. Trade or other names for tiletamine shall include, but not be limited to: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Trade or other names for zolazepam shall include, but not be limited to: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e) (1,4)-diazepin-7(1H)-one, and fluprazapon.

(c) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than one and eight-tenths grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than three hundred milligrams of dihydrocodeinone which is also known as hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than three hundred milligrams of dihydrocodeinone which is also known as hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than one and eight-tenths grams of dihydrocodeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams, or not more than twenty-five milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts; and

(8) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(d) Any anabolic steroid, which shall include any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation: (1) Boldenone; (2) chlorotestosterone (4-chlorotestosterone); (3) clostebol; (4) dehydrochloromethyltestosterone; (5) dihydrotestosterone (4-dihydrotestosterone); (6) drostanolone; (7) ethylestrenol; (8) fluoxymesterone; (9) formebolone (formebolone); (10) mesterolone; (11) methandienone; (12) methandranone; (13) methandriol; (14) methandrostenolone; (15) methenolone; (16) methyltestosterone; (17) mibolerone; (18) nandrolone; (19) norethandrolone; (20) oxandrolone; (21) oxymesterone; (22) oxymetholone; (23) stanolone; (24) stanazolol; (25) testolactone; (26) testosterone; (27) trenbolone; and (28) any salt, ester, or isomer of a drug or substance described or listed in this subdivision if the salt, ester, or isomer promotes muscle growth.

#### Schedule IV

(a) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Barbital; (2) chloral betaine; (3) chloral hydrate; (4) chlordiazepoxide, but not including librax (chlordiazepoxide hydrochloride and clindinium bromide) or menrium (chlordiazepoxide and water soluble esterified estrogens); (5) clonazepam; (6) clorazepate; (7) diazepam; (8) ethchlorvynol; (9) ethinamate; (10) flurazepam; (11) mebutamate; (12) meprobamate; (13) methohexital; (14) methylphenobarbital; (15) oxazepam; (16) paraldehyde; (17) petrichloral; (18) phenobarbital; (19) prazepam; (20) alprazolam; (21) bromazepam; (22) camazepam; (23) clobazam; (24) clotiazepam; (25) cloxazolam; (26) delorazepam; (27) estazolam; (28) ethyl loflazepate; (29) fludiazepam; (30) flunitrazepam; (31) halazepam; (32) haloxazolam; (33) ketazolam; (34) loprazolam; (35) lorazepam; (36) lormetazepam; (37) medazepam; (38) nimetazepam; (39) nitrazepam; (40) nordiazepam; (41) oxazolam; (42) pinazepam; (43) temazepam; (44) tetrazepam; (45) triazolam; (46) midazolam; (47) quazepam; and (48) zolpidem.

(b) Any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, whether optical, position, or geometric, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, whether optical, position, or geometric, and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation: (1) Diethylpropion; (2) phentermine; (3) pemoline, including organometallic complexes and chelates thereof; (4) mazindol; (5) pipradrol; (6) SPA, ((-)-1-dimethylamino-1,2-diphenylethane); (7) cathine. Another name for cathine is ((+)-norpseudoephedrine); (8) fencamfamin; (9) fenproporex; and (10) mefenorex.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following narcotic drugs, or their salts or isomers calculated as the free anhydrous base or alkaloid, in limited quantities as set forth

below: (1) **Dextropropoxyphene** (Alpha-~~(+)~~-4-dimethylamino-1,2-diphenyl-3-methyl-2-propyloxybutane) **Propoxyphene**; and (2) not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts: Pentazocine.

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, isomers, and salts of such isomers: Butorphanol.

(g) (1) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substance, including its salts, optical isomers, and salts of such optical isomers: Ephedrine.

(2) The following drug products containing ephedrine, its salts, optical isomers, and salts of such optical isomers are excepted from subdivision (g) (1) of Schedule IV if they may lawfully be sold over the counter without a prescription under the Federal Food, Drug, and Cosmetic Act; are labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph; are manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse; and are not marketed, advertised, or labeled for the indication of stimulation, mental alertness, weight loss, muscle enhancement, appetite control, or energy:

(A) Solid oral dosage forms, including soft gelatin capsules, that combine active ingredients in the following ranges for each dosage unit:

(i) Not less than one hundred milligrams nor more than one hundred thirty milligrams of theophylline and not less than twelve and five-tenths milligrams nor more than twenty-four milligrams of ephedrine;

(ii) Not less than sixty milligrams nor more than one hundred milligrams of theophylline, not less than twelve and five-tenths milligrams nor more than twenty-four milligrams of ephedrine, and not less than two hundred milligrams nor more than four hundred milligrams of guaifenesin;

(iii) Not less than twelve and five-tenths milligrams nor more than twenty-five milligrams of ephedrine and not less than two hundred milligrams nor more than four hundred milligrams of guaifenesin; and

(iv) Not more than eight milligrams of phenobarbital in combination with the ingredients of subdivision (g) (2) (A) (i) or (g) (2) (A) (ii) of Schedule IV;

(B) Liquid oral dosage forms that combine active ingredients in the following ranges for each five-milliliter dose:

(i) Not more than forty-five milligrams of theophylline, not more than thirty-six milligrams of ephedrine, not more than one hundred milligrams of guaifenesin, and not more than twelve milligrams of phenobarbital; and

(ii) Not more than five milligrams of phenylephrine, not more than five milligrams of ephedrine, not more than two milligrams of chlorpheniramine, not more than ten milligrams of dextromethorphan, not more than forty milligrams of ammonium chloride, and not more than five one-thousandths of a milligram of ipecac fluid extract; and

(C) Anorectal preparations containing less than five percent ephedrine.

#### Schedule V

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drug and its salts: (1) Buprenorphine.

(b) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs or salts calculated as the free anhydrous base or alkaloid, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

(2) Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

(3) Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(4) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(5) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams; and

(6) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit.

Sec. 9. Section 83-473, Reissue Revised Statutes of Nebraska, is amended to read:

~~83-473.~~ Any person who entices or attempts to entice a juvenile away from the Youth Rehabilitation and Treatment Center-Kearney or Youth Rehabilitation and Treatment Center-Genoa any juvenile legally committed to the facility, a facility or program when the juvenile has been legally placed with or committed to the Office of Juvenile Services or who knowingly harbors, transports, conceals, or aids in harboring, transporting, or concealing any juvenile who has escaped from the facility, shall be custody of the Office of Juvenile Services is guilty of a Class IV felony. Any sheriff or other officer authorized to make arrests or any officer or employee of the facility shall arrest any juvenile who has escaped from the facility and shall return him or her to the facility. The Office of Juvenile Services shall use all proper means for the apprehension of any escaped juvenile and for this purpose may offer a reward.

Sec. 10. Section 29-2204, Revised Statutes Supplement, 1997, is amended to read:

29-2204. (1) Except when a term of life is required by law, in imposing an indeterminate sentence upon an offender the court shall:

(a) (i) Until July 1, 1998, fix the minimum and maximum limits of the sentence to be served within the limits provided by law, except that when a maximum limit of life is imposed by the court for a Class IB felony, the minimum limit may be any term of years not less than the statutory mandatory minimum; and

(ii) Beginning July 1, 1998:

(A) Fix the minimum and maximum limits of the sentence to be served within the limits provided by law for any class of felony other than a Class IV felony, except that when a maximum limit of life is imposed by the court for a Class IB felony, the minimum limit may be any term of years not less than the statutory mandatory minimum. If the criminal offense is a Class IV felony, the court shall fix the minimum and maximum limits of the sentence, but the minimum limit fixed by the court shall not be less than the minimum provided by law nor more than one-third of the maximum term and the maximum limit shall not be greater than the maximum provided by law; or

~~(B)~~ (B) Impose a definite term of years, in which event the maximum term of the sentence shall be the term imposed by the court and the minimum term shall be the minimum sentence provided by law;

(b) Advise the offender on the record the time the offender will serve on his or her minimum term before attaining parole eligibility assuming that no good time for which the offender will be eligible is lost; and

(c) Advise the offender on the record the time the offender will serve on his or her maximum term before attaining mandatory release assuming that no good time for which the offender will be eligible is lost.

If any discrepancy exists between the statement of the minimum limit of the sentence and the statement of parole eligibility or between the statement of the maximum limit of the sentence and the statement of mandatory release, the statements of the minimum limit and the maximum limit shall control the calculation of the offender's term. If the court imposes more than one sentence upon an offender or imposes a sentence upon an offender who is at that time serving another sentence, the court shall state whether the sentences are to be concurrent or consecutive.

(2) (a) When the court is of the opinion that imprisonment may be appropriate but desires more detailed information as a basis for determining the sentence to be imposed than has been provided by the presentence report required by section 29-2261, the court shall commit an offender to the Department of Correctional Services for a period not exceeding ninety days. The department shall conduct a complete study of the offender during that time, inquiring into such matters as his or her previous delinquency or criminal experience, social background, capabilities, and mental, emotional, and physical health and the rehabilitative resources or programs which may be available to suit his or her needs. By the expiration of the period of commitment or by the expiration of such additional time as the court shall grant, not exceeding a further period of ninety days, the offender shall be returned to the court for sentencing and the court shall be provided with a written report of the results of the study, including whatever recommendations the department believes will be helpful to a proper resolution of the case. After receiving the report and the recommendations, the court shall proceed to sentence the offender in accordance with subsection (1) of this section. The term of the sentence shall run from the date of original commitment under this subsection.

(b) In order to encourage the use of this procedure in appropriate cases, all costs incurred during the period the defendant is held in a state institution under this subsection shall be a responsibility of the state and the county shall be liable only for the cost of delivering the defendant to the institution and the cost of returning him or her to the appropriate court for sentencing or such other disposition as the court may then deem appropriate.

(3) Except when a term of life is required by law, whenever the defendant was under eighteen years of age at the time he or she committed the crime for which he or she was convicted, the court may, in its discretion, instead of imposing the penalty provided for the crime, make such disposition of the defendant as the court deems proper under the Nebraska Juvenile Code. Prior to making a disposition which commits the juvenile to the Office of Juvenile Services, the court shall order the juvenile to be evaluated by the office if the juvenile has not had an evaluation within the past twelve months.

Sec. 11. Section 43-245, Revised Statutes Supplement, 1997, is amended to read:

43-245. For purposes of the Nebraska Juvenile Code, unless the context otherwise requires:

(1) Age of majority means nineteen years of age;

(2) Approved center means a center that has applied for and received approval from the Director of the Office of Dispute Resolution under section 25-2909;

(3) Cost or costs means (a) the sum or equivalent expended, paid, or charged for goods or services, or expenses incurred, or (b) the contracted or negotiated price;

~~(4)~~ (4) Juvenile means any person under the age of eighteen;

~~(5)~~ (5) Juvenile court means the separate juvenile court where it has been established pursuant to sections 43-2,111 to 43-2,127 and the county court sitting as a juvenile court in all other counties. Nothing in the Nebraska Juvenile Code shall be construed to deprive the district courts and, on and after October 1, 1997, the county courts and district courts, of their habeas corpus, common-law, or chancery jurisdiction or jurisdiction acquired in an action for divorce, legal separation, or annulment;

~~(6)~~ (6) Juvenile detention facility has the same meaning as in section 83-4,125;

(7) Mediator for juvenile offender and victim mediation means a person who (a) has completed at least thirty hours of training in conflict resolution techniques, neutrality, agreement writing, and ethics set forth in section 25-2913, (b) has an additional eight hours of juvenile offender and victim mediation training, and (c) meets the apprenticeship requirements set forth in section 25-2913;

(8) Mental health facility means a mental health center as defined in section 83-1006 or a government, private, or state hospital which treats mental illness;

~~(7)~~ (9) Nonoffender means a juvenile who is subject to the jurisdiction of the juvenile court for reasons other than legally prohibited conduct, including, but not limited to, juveniles described in subdivision (3)(a) of section 43-247;

(10) Parent means one or both parents or a stepparent when such stepparent is married to the custodial parent as of the filing of the petition;

~~(8)~~ (11) Parties means the juvenile as described in section 43-247 and his or her parent, guardian, or custodian; and

~~(9)~~ (12) Status offender means a juvenile who has been charged with or adjudicated for conduct which would not be a crime if committed by an adult, including, but not limited to, juveniles charged under subdivision (3)(b) of section 43-247 and sections 53-180.01 and 53-180.02; and

(13) Traffic offense means any nonfelonious act in violation of a law or ordinance regulating vehicular or pedestrian travel, whether designated a misdemeanor or a traffic infraction.

Sec. 12. Section 43-246, Revised Statutes Supplement, 1996, is amended to read:

43-246. Acknowledging the responsibility of the juvenile court to act to preserve the public peace and security, the Nebraska Juvenile Code shall be construed to effectuate the following:

(1) To assure the rights of all juveniles to care and protection and a stable living environment and to development of their capacities for a healthy personality, physical well-being, and useful citizenship and to protect the public interest;

(2) To provide for the intervention of the juvenile court in the

interest of any juvenile who is within the provisions of the Nebraska Juvenile Code, with due regard to parental rights and capacities and the availability of nonjudicial resources;

(3) To remove juveniles who are within the Nebraska Juvenile Code from the criminal justice system whenever possible and to reduce the possibility of their committing future law violations through the provision of social and rehabilitative services to such juveniles and their families;

(4) To offer selected juveniles the opportunity to take direct personal responsibility for their individual actions by reconciling with the victims through juvenile offender and victim mediation and fulfilling the terms of the resulting agreement which may require restitution and community service;

(5) To achieve the foregoing purposes of subdivisions (1) through (3) of this section in the juvenile's own home whenever possible, separating the juvenile from his or her parent only when necessary for his or her welfare or in the interest of public safety and, when temporary separation is necessary, to consider the developmental needs of the individual juvenile in all placements, to consider relatives as a preferred potential placement resource, and to assure every reasonable effort possible to reunite the juvenile and his or her family;

~~(5)~~ (6) To provide a judicial procedure through which these purposes and goals are accomplished and enforced in which the parties are assured a fair hearing and their constitutional and other legal rights are recognized and enforced; and

~~(6)~~ (7) To assure compliance, in cases involving Indian children, with the Nebraska Indian Child Welfare Act.

Sec. 13. Section 43-250, Revised Statutes Supplement, 1997, is amended to read:

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

(1) The officer shall release such juvenile;

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

(3) The officer shall take such juvenile without unnecessary delay before the juvenile court or probation officer of the county in which such juvenile was taken into custody and deliver the custody of such juvenile to the juvenile court or probation officer. When secure custody of a juvenile is necessary, such custody shall occur within a juvenile detention facility except:

(a) When a juvenile described in subdivision (1) or (2) of section 43-247, except for a status offender, is taken into temporary custody within a metropolitan statistical area and where no juvenile detention facility is reasonably available, the juvenile may be delivered, for temporary custody not to exceed six hours, to a secure area of a jail or other facility intended or used for the detention of adults solely for the purposes of identifying the juvenile and ascertaining his or her health and well-being and for safekeeping while awaiting transport to an appropriate juvenile placement or release to a responsible party;

(b) When a juvenile described in subdivision (1) or (2) of section 43-247, except for a status offender, is taken into temporary custody outside of a metropolitan statistical area and where no juvenile detention facility is reasonably available, the juvenile may be delivered, for temporary custody not to exceed twenty-four hours excluding nonjudicial days and while awaiting an initial court appearance, to a secure area of a jail or other facility intended or used for the detention of adults solely for the purposes of identifying the juvenile and ascertaining his or her health and well-being and for safekeeping while awaiting transport to an appropriate juvenile placement or release to a responsible party;

(c) Whenever a juvenile is held in a secure area of any jail or other facility intended or used for the detention of adults, there shall be no verbal, visual, or physical contact between the juvenile and any incarcerated adult and there shall be adequate staff to supervise and monitor the juvenile's activities at all times. This subdivision shall not apply to a juvenile charged with a felony as an adult in county or district court if he or she is sixteen years of age or older;

(d) If a juvenile is under sixteen years of age or is a juvenile as described in subdivision (3) of section 43-247, he or she shall not be placed within a secure area of a jail or other facility intended or used for the detention of adults;

(e) If, within the time limits specified in subdivision (3)(a) or (3)(b) of this section, a felony charge is filed against the juvenile as an adult in county or district court, he or she may be securely held in a jail or other facility intended or used for the detention of adults beyond the specified time limits;

(f) A status offender or nonoffender taken into temporary custody shall not be held in a secure area of a jail or other facility intended or used for the detention of adults. A status offender accused of violating a valid court order may be securely detained in a juvenile detention facility longer than twenty-four hours if he or she is afforded a detention hearing before a court within twenty-four hours, excluding nonjudicial days, and if, prior to a dispositional commitment to secure placement, a public agency, other than a court or law enforcement agency, is afforded an opportunity to review the juvenile's behavior and possible alternatives to secure placement and has submitted a written report to the court; and

(g) A juvenile described in subdivision (1) or (2) of section 43-247, except for a status offender, may be held in a secure area of a jail or other facility intended or used for the detention of adults for up to six hours before and six hours after any court appearance;

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

(5) If the officer takes the juvenile into custody pursuant to subdivision (4) of section 43-248, the officer may place the ~~child~~ juvenile at a mental health facility for evaluation and emergency treatment or may deliver the juvenile to the Department of Health and Human Services pursuant to subdivision (4) of this section. At the time of the admission or turning the ~~child~~ juvenile over to the department, the peace officer responsible for taking the juvenile into custody shall execute a written certificate as prescribed by the Department of Health and Human Services which will indicate that the officer believes the juvenile to be mentally ill and dangerous, a summary of the subject's behavior supporting such allegations, and that the harm described in section 83-1009 is likely to occur before proceedings before a juvenile court may be invoked to obtain custody of the juvenile. A copy of the certificate shall be forwarded to the county attorney. The peace officer shall notify the juvenile's parents, guardian, custodian, or relative of the juvenile's placement.

In determining the appropriate temporary placement of a juvenile under this section, the officer shall select the placement which is least restrictive of the juvenile's freedom so long as such placement is compatible with the best interests of the juvenile and the safety of the community.

Sec. 14. Section 43-251, Revised Statutes Supplement, 1997, is amended to read:

43-251. (1) When a juvenile is taken into custody pursuant to sections 43-248 and 43-250, the court or magistrate may take any action for preadjudication placement or detention prescribed in the Nebraska Juvenile Code, ~~and, if such juvenile is age thirteen years or under and if the court~~



or magistrate shall place such juvenile in the care of the sheriff, police officer, probation officer, or other suitable person; such person shall keep the juvenile in a suitable place outside the enclosure of any jail or police station.

(2) When a juvenile under the age of sixteen years shall be detained in any institution to which adults are sentenced, it shall be unlawful to permit such juvenile to have verbal, visual, or physical contact with such adults at any time.

(3) (2) Any juvenile taken into custody under the Nebraska Juvenile Code for allegedly being mentally ill and dangerous shall not be placed in a jail or detention facility designed for juveniles who are accused of criminal acts or for juveniles as described in subdivision (1), (2), or (4) of section 43-247 either as a temporary placement by a peace officer, as a temporary placement by a court, or as an adjudication placement by the court.

Sec. 15. Section 43-253, Revised Statutes Supplement, 1996, is amended to read:

43-253. (1) Upon delivery to the juvenile court or probation officer of a juvenile who has been taken into temporary custody under sections 43-248 and 43-250, the court or probation officer shall immediately investigate the situation of the juvenile and the nature and circumstances of the events surrounding his or her being taken into custody. Such investigation may be by hearing on the record before the court or by informal means when appropriate.

(2) No juvenile who has been taken into temporary custody under subdivision (3) of section 43-250 shall be detained in any locked facility for longer than twenty-four hours, excluding nonjudicial days, after having been taken into custody unless such juvenile has appeared personally before a court of competent jurisdiction for a hearing to determine if continued detention is necessary. If continued detention in a locked facility is ordered, such detention shall be in a juvenile detention facility, except that a juvenile charged with a felony as an adult in county or district court may be held in an adult jail as set forth in subdivision (3)(e) of section 43-250.

(3) When the court or probation officer deems it to be in the best interests of the juvenile, the court or probation officer shall immediately release such juvenile to the custody of his or her parent. If the juvenile has both a custodial and a noncustodial parent and the court or probation officer deems that release of the juvenile to the custodial parent is not in the best interests of the juvenile, the court or probation officer shall, if it is deemed to be in the best interests of the juvenile, attempt to contact the noncustodial parent, if any, of the juvenile and to release the juvenile to such noncustodial parent. If such release is not possible or not deemed to be in the best interests of the juvenile, the court or probation officer may release the juvenile to the custody of a legal guardian, a responsible relative, or another responsible person. The court may admit such juvenile to bail by bond in such amount and on such conditions and security as the court, in its sole discretion, shall determine, or the court may proceed as provided in section 43-254. In no case shall the court or probation officer release such juvenile if it appears that further detention or placement of such juvenile is a matter of immediate and urgent necessity for the protection of such juvenile or the person or property of another or if it appears that such juvenile is likely to flee the jurisdiction of the court.

Sec. 16. Section 43-255, Reissue Revised Statutes of Nebraska, is amended to read:

43-255. Whenever a juvenile is detained or placed under the provisions of section 43-253 or 43-254, such juvenile shall not be detained in a locked facility for longer than twenty-four hours after having been taken into custody, excluding nonjudicial days, unless, pursuant to section 43-253, the juvenile court enters an order continuing detention or placement until the adjudication hearing after a reasonable showing that the need for detention or placement still exists. The court may authorize the release of such juvenile on such conditions and security as the court in its sole discretion shall determine. Whenever a juvenile is detained or placed under section 43-250 or 43-253, the juvenile shall be released unconditionally within forty-eight hours after the detention or placement order or the setting of bond, excluding nonjudicial days, unless within such period of time (1) a petition has been filed alleging that such juvenile has violated an order of the juvenile court, (2) a petition has been filed pursuant to section 43-274, or (3) a criminal complaint has been filed in a court of competent jurisdiction.

Sec. 17. Section 43-256, Reissue Revised Statutes of Nebraska, is amended to read:

43-256. When the court enters an order continuing placement or detention pursuant to section ~~43-255~~ 43-253, upon request of the juvenile, or

his or her parent, guardian, or attorney, the court shall hold a hearing within a reasonable time, at which hearing the burden of proof shall be upon the state to show probable cause that such juvenile is within the jurisdiction of the court. Strict rules of evidence shall not apply at the probable cause hearing. The juvenile shall be released if probable cause is not shown. At the option of the court, it may hold the adjudication hearing provided in section 43-279 as soon as possible instead of the probable cause hearing if held within a reasonable period of time. ~~Sections This section and section 43-255 and 43-256~~ shall not apply to a juvenile (1) who has escaped from a commitment or (2) who has been taken into custody for his or her own protection as provided in subdivision (3) of section 43-248 in which case the juvenile shall be held on order of the court with jurisdiction for a reasonable period of time.

Sec. 18. The Nebraska Commission on Law Enforcement and Criminal Justice shall adopt, promulgate, and implement rules and regulations to harmonize state and federal law on the temporary detention of juveniles.

Sec. 19. Section 43-258, Revised Statutes Supplement, 1996, is amended to read:

43-258. (1) Pending the adjudication of any case under the Nebraska Juvenile Code, the court may order the juvenile examined by a physician, surgeon, psychiatrist, duly authorized community mental health service program, or psychologist to aid the court in determining (a) a material allegation in the petition relating to the juvenile's physical or mental condition, (b) the juvenile's competence to participate in the proceedings, (c) the juvenile's responsibility for his or her acts, or (d) whether or not to provide emergency medical treatment.

(2) Pending the adjudication of any case under the Nebraska Juvenile Code and after a showing of probable cause that the juvenile is within the court's jurisdiction, for the purposes of subsection (1) of this section, the court may order such juvenile to be placed in one of the facilities or institutions of the State of Nebraska. Such juvenile shall not be placed in an adult ~~penal institution~~ correctional facility, the secure youth confinement facility operated by the Department of Correctional Services, or either of the youth rehabilitation and treatment centers center. Any placement for evaluation may be made on an ~~inpatient or outpatient~~ residential or nonresidential basis for a period not to exceed thirty days except as provided by section 47 of this act. The head of any facility or institution shall make a complete evaluation of the juvenile, including any authorized area of inquiry requested by the court.

(3) ~~Upon the expiration of the commitment period or such additional periods as the court may authorize, which shall not exceed thirty days each. Upon completion of the evaluation, the juvenile shall be returned to the court together with a written report of the results of the evaluation. Such evaluation report shall include an assessment of the basic needs of the juvenile and recommendations for continuous and long-term care and shall be made to effectuate the purposes in subdivision (1) of section 43-246.~~

(4) In order to encourage the use of the procedure provided in this section, all costs incurred during the period the juvenile is being evaluated at a state facility or ~~institution~~ program funded by the Office of Juvenile Services shall be the responsibility of the state unless otherwise ordered by the court pursuant to section 43-290. The county in which the case is pending shall be liable only for the cost of delivering the juvenile to the facility or institution and the cost of returning him or her to the court for disposition.

Sec. 20. Section 43-274, Reissue Revised Statutes of Nebraska, is amended to read:

43-274. (1) The county attorney or any reputable person residing in the county, with the consent of the county attorney, having knowledge of a juvenile in his or her county who appears to be a juvenile described in subdivision (1), (2), (3), or (4) of section 43-247 may file with the clerk of the court having jurisdiction in the matter, a petition in writing specifying which subdivision of section 43-247 is alleged, setting forth the facts verified by affidavit, and requesting the court to determine whether support will be ordered pursuant to section 43-290. Allegations under subdivisions (1), (2), and (4) of section 43-247 shall be made with the same specificity as a criminal complaint. It shall be sufficient if the affidavit is based upon information and belief. Such petition and all subsequent proceedings shall be entitled In the Interest of ..... a Juvenile Under Eighteen Years of Age, inserting the juvenile's name in the blank. In all cases involving violation of a city or village ordinance, the city or village prosecutor may file a petition in juvenile court.

(2)(a) If a juvenile appears to be a juvenile described in

subdivision (1), (2), (3)(b), or (4) of section 43-247 because of a nonviolent act or acts, the county attorney may offer mediation to the juvenile and the victim of the juvenile's act. If both the juvenile and the victim agree to mediation, the juvenile, his or her parent, guardian, or custodian, and the victim shall sign a mediation consent form and select a mediator or approved center from the roster made available pursuant to section 25-2908. The county attorney shall refer the juvenile and the victim to such mediator or approved center. The mediation sessions shall occur within thirty days after the date the mediation referral is made by the county attorney unless an extension is approved by the county attorney. The juvenile or his or her parent, guardian, or custodian shall pay the mediation fees. The fee shall be determined by the mediator in private practice or by the approved center. A juvenile shall not be denied services at an approved center because of an inability to pay.

(b) Terms of the agreement shall specify monitoring, completion, and reporting requirements. The county attorney, the court, or the probation office shall be notified by the designated monitor if the juvenile does not complete the agreement within the agreement's specified time.

(c) Terms of the agreement may include one or more of the following:

(i) Participation by the juvenile in certain community service programs;

(ii) Payment of restitution by the juvenile to the victim;

(iii) Reconciliation between the juvenile and the victim; and

(iv) Any other areas of agreement.

(d) If no mediation agreement is reached, the mediator or approved center will report that fact to the county attorney within forty-eight hours of the final mediation session excluding nonjudicial days.

(e) If a mediation agreement is reached and the agreement does not violate public policy, the agreement shall be approved by the county attorney. If the agreement is not approved and the victim agrees to return to mediation

(i) the juvenile may be referred back to mediation with suggestions for changes needed in the agreement to meet approval or (ii) the county attorney may proceed with the filing of a criminal charge or juvenile court petition. If the juvenile agrees to return to mediation but the victim does not agree to return to mediation, the county attorney may consider the juvenile's willingness to return to mediation when determining whether or not to file a criminal charge or a juvenile court petition.

(f) If the juvenile meets the terms of an approved mediation agreement, the county attorney shall not file a criminal charge or juvenile court petition against the juvenile for the acts for which the juvenile was referred to mediation.

Sec. 21. Section 43-275, Reissue Revised Statutes of Nebraska, is amended to read:

43-275. Whenever a juvenile is detained or placed in custody under the provisions of section 43-253, a petition, or complaint, or mediation consent form must be filed within forty-eight hours excluding nonjudicial days.

Sec. 22. Section 43-276, Reissue Revised Statutes of Nebraska, is amended to read:

43-276. In cases coming within subdivision (1) of section 43-247, when there is concurrent jurisdiction, or subdivision (2) or (4) of section 43-247, when the juvenile is under the age of sixteen years, the county attorney shall, in making the determination whether to file a criminal charge, or juvenile court petition, or mediation referral, consider: (1) The type of treatment such juvenile would most likely be amenable to; (2) whether there is evidence that the alleged offense included violence or was committed in an aggressive and premeditated manner; (3) the motivation for the commission of the offense; (4) the age of the juvenile and the ages and circumstances of any others involved in the offense; (5) the previous history of the juvenile, including whether he or she had been convicted of any previous offenses or adjudicated in juvenile court, and, if so, whether such offenses were crimes against the person or relating to property, and other previous history of antisocial behavior, if any, including any patterns of physical violence; (6) the sophistication and maturity of the juvenile as determined by consideration of his or her home, school activities, emotional attitude and desire to be treated as an adult, pattern of living, and whether he or she has had previous contact with law enforcement agencies and courts and the nature thereof; (7) whether there are facilities particularly available to the juvenile court for treatment and rehabilitation of the juvenile; (8) whether the best interests of the juvenile and the security of the public may require that the juvenile continue in custody or under supervision for a period extending beyond his or her minority and, if so, the available alternatives best suited to this purpose; (9) whether the victim agrees to participate in mediation; and (9)

(10) such other matters as the county attorney deems relevant to his or her decision.

Sec. 23. Section 43-279, Reissue Revised Statutes of Nebraska, is amended to read:

43-279. (1) The adjudication portion of hearings shall be conducted before the court without a jury, applying the customary rules of evidence in use in trials without a jury. When the petition alleges the juvenile to be within the provisions of subdivision (1), (2), (3)(b), or (4) of section 43-247 and the juvenile or his or her parent, guardian, or custodian appears with or without counsel, the court shall inform the parties:

(a) Of the nature of the proceedings and the possible consequences or dispositions pursuant to sections 43-284 to 43-287 ~~43-286~~, 43-289, and 43-290 that may apply to the juvenile's case following an adjudication of jurisdiction;

(b) Of such juvenile's right to counsel as provided in sections 43-272 and 43-273;

(c) Of the privilege against self-incrimination by advising the juvenile, parent, guardian, or custodian that the juvenile may remain silent concerning the charges against the juvenile and that anything said may be used against the juvenile;

(d) Of the right to confront anyone who testifies against the juvenile and to cross-examine any persons who appear against the juvenile;

(e) Of the right of the juvenile to testify and to compel other witnesses to attend and testify in his or her own behalf;

(f) Of the right of the juvenile to a speedy adjudication hearing; and

(g) Of the right to appeal and have a transcript for such purpose.

After giving such warnings and admonitions, the court may accept an in-court admission by the juvenile of all or any part of the allegations in the petition if the court has determined from examination of the juvenile and those present that such admission is intelligently, voluntarily, and understandingly made and with an affirmative waiver of rights and that a factual basis for such admission exists. The court may base its adjudication provided in subsection (2) of this section on such admission.

(2) If the juvenile denies the petition or stands mute the court shall first allow a reasonable time for preparation if needed and then consider only the question of whether the juvenile is a person described by section 43-247. After hearing the evidence on such question, the court shall make a finding and adjudication, to be entered on the records of the court, whether or not the juvenile is a person described by subdivision (1), (2), (3)(b), or (4) of section 43-247 based upon proof beyond a reasonable doubt. If an Indian child is involved, the standard of proof shall be in compliance with the Nebraska Indian Child Welfare Act, if applicable.

(3) If the court shall find that the juvenile named in the petition is not within the provisions of section 43-247, it shall dismiss the case. If the court finds that the juvenile named in the petition is such a juvenile, it shall make and enter its findings and adjudication accordingly, designating which subdivision or subdivisions of section 43-247 such juvenile is within; the court shall allow a reasonable time for preparation if needed and then proceed to an inquiry into the proper disposition to be made of such juvenile.

Sec. 24. Section 43-281, Revised Statutes Supplement, 1996, is amended to read:

43-281. Following an adjudication of jurisdiction and prior to final disposition, the court may place the juvenile with the Office of Juvenile Services or the Department of Health and Human Services for evaluation, in either a facility or an institution under the control of the State of Nebraska, except an adult penal institution as provided in section 43-258, or in a community facility or institution. The office or department shall make arrangements for an appropriate evaluation.

Sec. 25. All placements and commitments of juveniles for evaluations or as temporary or final dispositions are subject to the following:

(1) No juvenile shall be confined in an adult correctional facility as a disposition of the court;

(2) A juvenile who is found to be a juvenile as described in subdivision (3) of section 43-247 shall not be placed in an adult correctional facility, the secure youth confinement facility operated by the Department of Correctional Services, or a youth rehabilitation and treatment center or committed to the Office of Juvenile Services;

(3) A juvenile who is found to be a juvenile as described in subdivision (1), (2), or (4) of section 43-247 shall not be assigned or transferred to an adult correctional facility or the secure youth confinement

facility operated by the Department of Correctional Services; and

(4) A juvenile under the age of twelve years shall not be placed with or committed to a youth rehabilitation and treatment center except as provided in section 43-286.

Sec. 26. Section 43-286, Revised Statutes Supplement, 1996, is amended to read:

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

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

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

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

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

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

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

(2) When any juvenile is found by the court to be a juvenile described in subdivision (3)(b) of section 43-247, the court may enter such order as it is empowered to enter under subdivision (1)(a) of this section or enter an order committing or placing the juvenile to the care and custody of the Department of Health and Human Services.

(3) Beginning three calendar months after the adjournment of this legislative session, when any juvenile is adjudicated to be a juvenile described in subdivision (1), (2), (3)(b), or (4) of section 43-247 because of a nonviolent act or acts and the juvenile has not previously been adjudicated to be such a juvenile because of a violent act or acts, the court may, with the agreement of the victim, order the juvenile to attend juvenile offender and victim mediation with a mediator or at an approved center selected from the roster made available pursuant to section 25-2908.

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

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

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

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

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

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

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

~~(f) (vi)~~ In cases when the court revokes probation, it shall enter a written statement as to the evidence relied on and the reasons for revocation. Sec. 27. Section 43-2,129, Revised Statutes Supplement, 1997, is amended to read:

43-2,129. Sections 43-245 to 43-2,129 and section 25 of this act shall be known and may be cited as the Nebraska Juvenile Code.

Sec. 28. Section 43-536, Revised Statutes Supplement, 1997, is amended to read:

43-536. In determining the rate of reimbursement for child care, the Department of Health and Human Services Finance and Support shall conduct a market rate survey of the child care providers in the state. The Department of Health and Human Services shall adjust the reimbursement rate for child care every second year beginning July 1, 1997, at a rate not less than the sixtieth percentile and not to exceed the seventy-fifth percentile of the current market rate survey, except that nationally accredited child care providers may be reimbursed at higher rates.

Sec. 29. Section 43-905, Revised Statutes Supplement, 1996, is amended to read:

43-905. (1) The Department of Health and Human Services shall be the legal guardian of all children committed to it. The department shall afford temporary care and shall use special diligence to provide suitable homes for such children. The department is authorized to place such children in suitable families for adoption or, in the discretion of the department, on a written contract.

(2) The contract shall provide (a) for the children's education in the public schools or otherwise, (b) for teaching them some useful occupation, and (c) for kind and proper treatment as members of the family in which they are placed.

(3) Whenever any child who has been committed to the Department of Health and Human Services becomes self-supporting, the ~~director~~ Director of Health and Human Services shall declare that fact and the guardianship of the department shall cease. Thereafter the child shall be entitled to his or her own earnings. Guardianship of and services by the department shall never extend beyond the age of majority, except that services by the department to a child shall continue until the child reaches the age of twenty-one if the child is a student regularly attending a school, college, or university or regularly attending a course of vocational or technical training designed to prepare such child for gainful employment.

(4) Whenever the parents of any ward, whose parental rights have not been terminated, have become able to support and educate their child, the department shall restore the child to his or her parents if the home of such parents would be a suitable home. The guardianship of the department shall then cease.

(5) Whenever permanent free homes for the children cannot be obtained, the department shall have the authority to provide and pay for the maintenance of the children in private families, boarding homes, or institutions for care of children.

~~(6) The Department of Health and Human Services Finance and Support shall provide and pay for liability and property damage insurance for participants in a family foster parent program who have been licensed or approved to provide care or who have been licensed or approved by a legally established Indian tribal council operating within the state to provide care.~~

Sec. 30. Section 43-1320, Revised Statutes Supplement, 1996, is amended to read:

43-1320. (1) The Legislature finds and declares that foster parents are a valuable resource providing an important service to the citizens of Nebraska. The Legislature recognizes that the current insurance crisis has adversely affected some foster parents in several ways. Foster parents have been unable to obtain liability insurance coverage over and above homeowner's or tenant's coverage for actions filed against them by the foster child, the child's parents, or the child's legal guardian. In addition, the monthly payment made to foster parents is not sufficient to cover the cost of obtaining extended coverage and there is no mechanism in place by which foster parents can recapture the cost. Foster parents' personal resources are at risk, and therefore the Legislature desires to provide relief to address these problems.

(2) The Department of Health and Human Services Finance and Support shall provide for self-insuring the foster parent program pursuant to section 81-8,239.01 or shall provide and pay for liability and property damage insurance for participants in a family foster parent program who have been licensed or approved to provide care or who have been licensed or approved by a legally established Indian tribal council operating within the state to provide care.

(3) There is hereby created the Foster Parent Liability and Property Damage Fund. The fund shall be administered by the Department of Health and Human Services Finance and Support and shall be used to provide funding for self-insuring the foster parent program pursuant to section 81-8,239.01 or to purchase any liability and property damage insurance policy provided pursuant to subsection (4) of section 43-905 (2) of this section and reimburse foster parents for unreimbursed liability and property damage incurred or caused by a foster child as the result of acts covered by the insurance policy. Claims for unreimbursed liability and property damage incurred or caused by a foster child may be submitted in the manner provided in the State Miscellaneous Claims Act. Each claim shall be limited to the amount of any deductible applicable to the insurance policy provided pursuant to subsection (4) of ~~section 43-905 (2) of this section~~, and there may be a fifty-dollar deductible payable by the foster parent per claim. The Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations to carry out this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 31. The Director of Health and Human Services may request that petty cash funds be created at specific locations which may be used for fees and costs related to the prosecution of support establishment, modification, and enforcement cases, including, but not limited to, court costs, filing fees, service of process fees, sheriff's costs, garnishment and execution fees, court reporter and transcription costs, costs related to appeals, witness and expert witness fees, and fees or costs for obtaining necessary documents. The petty cash funds shall be created and administered as provided in section 81-104.01, except that the amount in each petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

Sec. 32. Section 43-2624, Revised Statutes Supplement, 1997, is amended to read:

43-2624. The Department of Health and Human Services shall award grants to persons, community-based organizations, or schools needing assistance to start or improve a child care program or needing assistance to provide staff training for a child care program. No grant shall exceed ten thousand dollars. A recipient of a grant shall not be eligible for a grant more than once in a three-year period. Child care grants shall be awarded on the basis of need for the proposed services in the community. Grants shall be

given only to grantees who do not discriminate against children with disabilities or children whose care is funded by any state or federal funds. When considering grant applications of equal merit, the department shall award the grant to the applicant which has not previously received a grant from the Child Care Grant Fund.

Sec. 33. Sections 33 to 55 of this act shall be known and may be cited as the Health and Human Services, Office of Juvenile Services Act.

Sec. 34. Section 83-925.01, Reissue Revised Statutes of Nebraska, is amended to read:

~~83-925.01.~~ It is the intent of the Legislature that the juvenile justice system provide individualized ~~supervision, care,~~ accountability, and individualized treatment for juveniles in a manner consistent with public safety to those juveniles who violate the law. The juvenile justice system shall also promote prevention efforts through the support of programs and services designed to meet the needs of those juveniles who are identified as being at risk of violating the law and those whose behavior is such that they endanger themselves or others. The goal of the juvenile justice system shall be to provide a range of programs and services which:

- (1) Retain and support juveniles within their homes whenever possible and appropriate;
- (2) Provide the least restrictive and most appropriate setting for juveniles while adequately protecting them and the community;
- (3) Are community-based and are provided in as close proximity to the juvenile's community as possible and appropriate;
- (4) Provide humane, secure, and therapeutic confinement to those juveniles who present a danger to the community;
- (5) Provide followup and aftercare services to juveniles when returned to their families or communities to ensure that progress made and behaviors learned are integrated and continued;
- (6) Hold juveniles accountable for their unlawful behavior in a manner consistent with their long-term needs;
- (7) Base treatment planning and service provision upon an individual assessment evaluation of the juvenile's needs;
- (8) Are family focused and include the juvenile's family in assessment, treatment case planning, treatment, and service provision as appropriate;
- (9) Provide supervision and service coordination, as appropriate, to implement and monitor treatment plans and to prevent reoffending;
- (10) Provide integrated service delivery through appropriate linkages to other human service agencies; and
- (11) Promote the development and implementation of community-based programs designed to prevent unlawful behavior and to effectively minimize the depth and duration of the juvenile's involvement in the juvenile justice system.

Sec. 35. For purposes of the Health and Human Services, Office of Juvenile Services Act:

- (1) Aftercare means the control, supervision, and care exercised over juveniles who have been paroled;
- (2) Committed means an order by a court committing a juvenile to the care and custody of the Office of Juvenile Services for treatment;
- (3) Community supervision means the control, supervision, and care exercised over juveniles committed to the Office of Juvenile Services when a commitment to the level of treatment of a youth rehabilitation and treatment center has not been ordered by the court;
- (4) Evaluation means assessment of the juvenile's social, physical, psychological, and educational development and needs, including a recommendation as to an appropriate treatment plan;
- (5) Parole means a conditional release of a juvenile from a youth rehabilitation and treatment center to aftercare or transferred to Nebraska for parole supervision by way of interstate compact;
- (6) Placed for evaluation means a placement with the Office of Juvenile Services or the Department of Health and Human Services for purposes of an evaluation of the juvenile; and
- (7) Treatment means type of supervision, care, confinement, and rehabilitative services for the juvenile.

Sec. 36. Section 83-925.02, Revised Statutes Supplement, 1996, is amended to read:

~~83-925.02.~~ There is created within the Department of Health and Human Services the Office of Juvenile Services. The office shall have oversight and control of state juvenile correctional facilities and programs other than the secure youth confinement facility which is under the control of the Department of Correctional Services. The Administrator of the Office of



Juvenile Services shall be appointed by the Governor with the approval of a majority of the Legislature and shall be responsible for the administration of the facilities and programs of the office. The Department of Health and Human Services may contract with a state agency or private provider to operate any facilities and programs of the Office of Juvenile Services. be established within the department for administrative purposes. The office shall have separate budgeting procedures and shall develop and report budget information separately. For purposes of efficiency, some functions of the office shall be carried out collaboratively, through a sharing of administrative staff, between the office and the department, as determined by the Director of Health and Human Services.

Sec. 37. The administrative duties of the Office of Juvenile Services are to:

(1) Manage, establish policies for, and administer the office, including all facilities and programs operated by the office or provided through the office by contract with a provider;

(2) Supervise employees of the office, including employees of the facilities and programs operated by the office;

(3) Have separate budgeting procedures and develop and report budget information separately from the Department of Health and Human Services;

(4) Adopt and promulgate rules and regulations for the levels of treatment and for management, control, screening, evaluation, treatment, rehabilitation, parole, transfer, and discharge of juveniles placed with or committed to the Office of Juvenile Services;

(5) Ensure that statistical information concerning juveniles placed with or committed to facilities or programs of the office is collected, developed, and maintained for purposes of research and the development of treatment programs;

(6) Monitor commitments, placements, and evaluations at facilities and programs operated by the office or through contracts with providers and report its findings annually to the Legislature. The report shall include an assessment of the administrative costs of operating the facilities, the cost of programming, and the savings realized through reductions in commitments, placements, and evaluations;

(7) Coordinate the programs and services of the juvenile justice system with other governmental agencies and political subdivisions;

(8) Coordinate educational, vocational, and social counseling;

(9) Coordinate community-based services for juveniles and their families;

(10) Supervise and coordinate juvenile parole and aftercare services; and

(11) Exercise all powers and perform all duties necessary to carry out its responsibilities under the Health and Human Services, Office of Juvenile Services Act.

Sec. 38. Section 83-925.07, Revised Statutes Supplement, 1997, is amended to read:

83-925-07. In developing its programs, the The Office of Juvenile Services shall utilize:

(1) Design the table of organization for the office by designing the functional specifications for the operation of the office and managing the process of change as programs, functions, and services are transferred to the office;

(2) Develop risk Risk and need needs assessment instruments for use in determining the level of treatment for the juvenile; need for detention or other placement at the time a juvenile enters the system. This shall include validating and pilot testing the instruments in selected jurisdictions;

(3) Develop a (2) A case classification process to include the establishment of classification program levels of treatment defined by rules and regulations and case management standards for each program level of treatment. The process shall provide for a balance of accountability, public safety, and treatment; -

(3) Case management for all juveniles committed to the office; This shall include pilot testing the classification process with juveniles committed for placement;

(4) Develop a A purchase-of-care system which will facilitate the development of a statewide community-based continuum array of care with the involvement of the private sector and the local public sector. Care services may be purchased from private providers to provide a wider diversity of services. This system shall include accessing existing Title IV-E funds of the federal Social Security Act, as amended, new medicaid funds, and other funding sources to support eligible community-based services. Such services developed and purchased shall include, but not be limited to, evaluation

services. Services shall be offered and delivered on a regional basis, which shall be available on a geographically accessible basis across the state. The evaluation services available at the Youth Diagnostic and Rehabilitation Center pursuant to sections 83-4,101 to 83-4,104 shall be supplemented with purchased community-based evaluation services. The community-based evaluation services shall replace the evaluation services available at the Youth Diagnostic and Rehabilitation Center by December 31, 1999. All costs incurred during the period in which the juvenile is being evaluated shall be the responsibility of the state.

(5) Develop a community-based assessment and Community-based evaluation process. A prototype community-based evaluation process shall be developed and pilot-tested in several jurisdictions. Programs, supplemented by one or more residential evaluation programs. A residential evaluation program shall be established provided in a county containing a city of the metropolitan class. Community-based evaluation services shall replace the residential evaluation services available at the Youth Diagnostic and Rehabilitation Center by December 31, 1999; and

(6) Develop functional specifications for juvenile service centers and identify several demonstration sites. The risk assessment and community-based assessment and evaluation procedures may be pilot-tested at the juvenile service center demonstration sites; and

(7) (6) Identify and recommend the functional requirements for a management information system. The system shall be a unified, interdepartmental client information system which supports assessment the management function as well as the service function.

Sec. 39. Section 83-925.06, Revised Statutes Supplement, 1997, is amended to read:

83-925.06. The Office of Juvenile Services shall design and make available programs and treatment services at through the youth rehabilitation and treatment centers for juvenile offenders. The programs and treatment services shall be based upon the individual or family assessment and evaluation process and treatment plan. Programs and treatment services shall address:

(1) Behavioral impairments, severe emotional disturbances, sex offender behaviors, and other mental health or psychiatric disorders;

(2) Drug and alcohol addiction;

(3) Health and medical needs;

(4) Education, special education, and related services;

(5) Individual, group, and family counseling services as appropriate with any treatment plan related to subdivisions (1) through (4) of this section. Services shall also be made available for juveniles who have been physically or sexually abused;

(6) A case management and coordination process, shall be designed which will assure appropriate reintegration of the juvenile to his or her family, school, and community. This process shall follow individualized planning which shall begin at intake and assessment evaluation. Structured programming shall be scheduled for all juveniles. This programming shall include a strong academic program as well as classes in health education, living skills, vocational training, behavior management and modification, money management, family and parent responsibilities, substance abuse awareness, physical education, job skills training, and job placement assistance. Participation shall be required of all juveniles. The goal of such structured programming shall be to provide the academic and life skills necessary for a juvenile to successfully return to his or her home and community upon release; and

(7) The design and delivery of treatment programs within the youth rehabilitation and treatment centers as well as any licensing or certification requirements, and the office shall follow the requirements as stated within Title XIX and Title IV-E of the federal Social Security Act, as amended, the Special Education Act, or other funding guidelines as appropriate. It is the intent of the Legislature that these funding sources shall be utilized to support service needs of eligible juveniles in residence at the youth rehabilitation and treatment centers.

Sec. 40. Section 83-925.12, Revised Statutes Supplement, 1996, is amended to read:

83-925.12. (1) Whenever any juvenile is sentenced or committed under any provision of law to the Office of Juvenile Services, to any facility operated by the Office of Juvenile Services, or to the custody of the warden or Administrator of the Office of Juvenile Services, a superintendent of a facility, or an administrator of a program, he or she shall be the juvenile is deemed to be sentenced or committed to the Office of Juvenile Services. Juveniles committed to the Office of Juvenile Services shall also be

considered committed to the care and custody of the Department of Health and Human Services for the purpose of obtaining health care and treatment services.

(2) The Juvenile Services Director may designate as a place of confinement or placement of a juvenile committed to the Office of Juvenile Services any available, suitable, and appropriate residence facility or institution, whether or not operated by the state, or other placement appropriate to the needs of the juvenile, whether or not operated by the state, and may at any time transfer such juvenile from one place of placement to another subject to the following:

(a) A juvenile declared to be as described in subdivision (3) of section 43-247 shall not be assigned or transferred to any facility designed primarily for the imprisonment of adult committed offenders; and

(b) A juvenile declared to be as described in subdivision (1), (2), or (4) of section 43-247 shall not be assigned or transferred to any facility designed primarily for the imprisonment of adult committed offenders unless the juvenile is sixteen years of age or older and is a serious threat to the safety of persons in other facilities. The determination as to whether the juvenile is a serious threat to safety shall be made only after a juvenile court hearing in the court of original disposition at which the juvenile shall have the right to be represented by counsel. The committing court shall order the initial level of treatment for a juvenile committed to the Office of Juvenile Services. The court shall continue to maintain jurisdiction over any juvenile committed to the Office of Juvenile Services until such time that the juvenile is discharged from the Office of Juvenile Services. The court shall conduct review hearings every six months, or at the request of the juvenile, for any juvenile committed to the Office of Juvenile Services who is placed outside his or her home, except for a juvenile residing at a youth rehabilitation and treatment center. The court shall determine whether the out-of-home placement is in the best interests of the juvenile, with due consideration being given by the court to public safety.

(3) After the initial level of treatment is ordered by the committing court, the Office of Juvenile Services shall designate suitable placement and treatment services to be provided.

(4) For transfer hearings, the burden of proof to justify the transfer is on the Office of Juvenile Services, the standard of proof is clear and convincing evidence, and the strict rules of evidence do not apply. Transfers of juveniles from one place of treatment to another is subject to section 25 of this act and to the following:

(a) Except as provided in subdivision (b) of this subsection, if the Office of Juvenile Services proposes to transfer the juvenile from a less restrictive to a more restrictive place of treatment, a plan outlining the proposed change and the reasons for the proposed change shall be presented to the court which committed the juvenile. Such change shall occur only after a hearing and a finding by the committing court that the change is in the best interests of the juvenile, with due consideration being given by the court to public safety. At the hearing, the juvenile has the right to be represented by counsel;

(b) The Office of Juvenile Services may make an immediate temporary change without prior approval by the committing court only if the juvenile is in a harmful or dangerous situation, is suffering a medical emergency, is exhibiting behavior which warrants temporary removal, or has been placed in a non-state-owned facility and such facility has requested that the juvenile be removed. Approval of the committing court shall be sought within fifteen days of making an immediate temporary change, at which time a hearing shall occur before the court. The court shall determine whether it is in the best interests of the juvenile to remain in the new place of treatment, with due consideration being given by the court to public safety. At the hearing, the juvenile has the right to be represented by counsel; and

(c) If the proposed change seeks to transfer the juvenile from a more restrictive to a less restrictive place of treatment or to transfer the juvenile from the juvenile's current place of treatment to another which has the same level of restriction as the current place of treatment, the Office of Juvenile Services shall notify the juvenile, the juvenile's parents, custodian, or legal guardian, the committing court, the county attorney, the counsel for the juvenile, and the guardian ad litem of the proposed change. The juvenile has fifteen days after the date of the notice to request an administrative hearing with the Office of Juvenile Services, at which time the Office of Juvenile Services shall determine whether it is in the best interests of the juvenile for the proposed change to occur, with due consideration being given by the office to public safety. The juvenile may be represented by counsel at the juvenile's own expense. If the juvenile is

aggrieved by the administrative decision of the Office of Juvenile Services, the juvenile may appeal that decision to the committing court within fifteen days after the Office of Juvenile Services' decision. At the hearing before the committing court, the juvenile has the right to be represented by counsel.

(5) The committing court's review of a change of place of treatment pursuant to this section does not apply to parole revocation hearings.

Sec. 41. The Office of Juvenile Services shall have access to and may obtain copies of all records pertaining to a juvenile committed to it or placed with it, including, but not limited to, school records, medical records, juvenile court records, probation records, test results, treatment records, evaluations, and examination reports. Any person who, in good faith, furnishes any records or information to the Office of Juvenile Services shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed. The owners, officers, directors, employees, or agents of such medical office, school, court, office, corporation, partnership, or other such entity shall not be liable for furnishing such records or information.

Sec. 42. Any peace officer, juvenile parole officer, or direct care staff member of the Office of Juvenile Services has the authority to apprehend and detain a juvenile who has absconded or is attempting to abscond from a placement for evaluation or commitment to the Office of Juvenile Services and shall cause the juvenile to be returned to the facility or program or an appropriate juvenile detention facility. For purposes of this section, direct care staff member means any staff member charged with the day-to-day care and supervision of juveniles housed at a facility or program operated directly by the office or security staff who has received training in apprehension techniques and procedures.

Sec. 43. Section 83-925.13, Revised Statutes Supplement, 1997, is amended to read:

83-925.13- The Director of Health and Human Services shall have the authority, and may delegate the authority only to the Administrator of the Office of Juvenile Services, Director, to issue detainers for the apprehension and detention warrants for the arrest of juveniles who have absconded from a facility or program operated by the office or provided through a contract with placement with or commitment to the office. Any peace officer who arrests detains a juvenile on such a warrant detainer shall detain hold the juvenile in an appropriate facility or program for juveniles until the office can take custody of the juvenile.

Sec. 44. Section 83-472, Revised Statutes Supplement, 1996, is amended to read:

83-472- (1) Every juvenile committed to the Youth Rehabilitation and Treatment Center-Kearney or Youth Rehabilitation and Treatment Center-Geneva or other facility or placement of the Office of Juvenile Services under sections 83-465 to 83-479 pursuant to the Nebraska Juvenile Code or pursuant to subsection (3) of section 29-2204 shall remain there committed until he or she attains the age of nineteen unless sooner paroled or is legally discharged.

(2) The Office of Juvenile Services shall adopt and promulgate rules and regulations for the promotion, parole, and final discharge of juveniles such as shall be considered mutually beneficial for the Office of Juvenile Services and facilities under its direction and the juveniles.

(3) The discharge of any juvenile pursuant to the rules and regulations or upon his or her attainment of the age of nineteen shall be a complete release from all penalties incurred by conviction or adjudication of the offense for which he or she was committed.

Sec. 45. Section 83-4,101, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,101- (1) A court may, pursuant to section 41-281, place a juvenile with the Office of Juvenile Services or the Department of Health and Human Services for an evaluation to aid the court in the disposition.

(2) A juvenile convicted as an adult shall be placed with the Office of Juvenile Services for evaluation prior to sentencing as provided by subsection (3) of section 29-2204.

(3) All juveniles shall be evaluated prior to commitment to the Office of Juvenile Services. The office may place a juvenile in residential or nonresidential community-based evaluation services for purposes of evaluation to assist the court in determining the initial level of treatment for the juvenile.

(4) All costs incurred during the period in which the juvenile is being evaluated at a state facility or a program funded by the Office of Juvenile Services are the responsibility of the state unless otherwise ordered by the court pursuant to section 41-290. The juvenile court may commit any juvenile to the Youth Diagnostic and Rehabilitation Center upon the same terms

and conditions and subject to all provisions of law as govern commitments to the Youth Rehabilitation and Treatment Center-Kearney or the Youth Rehabilitation and Treatment Center-Geneva.

(2) The juvenile court may, without formal commitment, refer any juvenile found in need thereof to the Youth Diagnostic and Rehabilitation Center for detention for purposes of observation, testing, and examination, both mental and physical.

Sec. 46. Section 83-4,102, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,102. Each boy or girl at the Youth Diagnostic and Rehabilitation Center, whether committed or referred, juvenile placed for evaluation with the Office of Juvenile Services shall be subjected to medical examination and evaluation as directed by the office. Such observation, testing, and examination, both mental and physical, as shall be necessary to ascertain the reasons for his antisocial attitudes and conduct and to indicate a program designed to be followed in order to accomplish his rehabilitation and permit his return to society free of his antisocial attitudes and conduct, which program shall be carefully followed.

Sec. 47. Section 83-4,104, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,104. A juvenile placed for evaluation with the Office of Juvenile Services shall be returned to the court upon the completion of the evaluation or at the end of thirty days, whichever comes first. When the office finds that an extension of the thirty-day period is necessary to complete the evaluation, the court may order an extension not to exceed an additional thirty days. (1) Any juvenile committed to the Youth Diagnostic and Rehabilitation Center may be released therefrom upon the same terms and conditions and subject to all provisions of law as govern the release of juveniles committed to the Youth Rehabilitation and Treatment Center-Kearney or the Youth Rehabilitation and Treatment Center-Geneva.

(2) Any juvenile referred to the Youth Diagnostic and Rehabilitation Center may be released therefrom upon order of the court by which he or she was referred or when the purposes of the referral have been accomplished.

Sec. 48. The Office of Juvenile Services shall have administrative authority over the parole function for juveniles committed to a youth rehabilitation and treatment center and may (1) determine the time of release on parole of committed juveniles eligible for such release, (2) fix the conditions of parole, revoke parole, issue or authorize the issuance of detainers for the apprehension and detention of parole violators, and impose other sanctions short of revocation for violation of conditions of parole, and (3) determine the time of discharge from parole.

Sec. 49. In administering juvenile parole, the Office of Juvenile Services shall consider whether (1) the juvenile has completed the goals of his or her individual treatment plan or received maximum benefit from institutional treatment, (2) the juvenile would benefit from continued services under community supervision, (3) the juvenile can function in a community setting, (4) there is reason to believe that the juvenile will not commit further violations of law, and (5) there is reason to believe that the juvenile will comply with the conditions of parole.

Sec. 50. (1) Any juvenile parole officer or peace officer may apprehend and detain a juvenile who is on parole if the officer has reasonable cause to believe that a juvenile has violated or is about to violate a condition of his or her parole and that the juvenile will attempt to leave the jurisdiction or will place lives or property in danger unless the juvenile is detained. A juvenile parole officer may call upon a peace officer to assist him or her in apprehending and detaining a juvenile pursuant to this section. Such juvenile may be held in an appropriate juvenile facility pending hearing on the allegations.

(2) Juvenile parole officers may search for and seize contraband and evidence related to possible parole violations by a juvenile.

(3) Whether or not a juvenile is apprehended and detained by a juvenile parole officer or peace officer, if there is reason to believe that a juvenile has violated a condition of his or her parole, the Office of Juvenile Services may issue the juvenile written notice of the alleged parole violations and notice of a hearing on the alleged parole violations.

Sec. 51. (1) When a juvenile is apprehended and detained for an alleged violation of juvenile parole, he or she shall have a preliminary hearing as soon as practicable and no later than within seventy-two hours of being apprehended and detained. An impartial hearing officer shall conduct the preliminary hearing. The impartial hearing officer shall not be the juvenile parole officer alleging the violation of parole or a witness to the alleged violation. The impartial hearing officer may be an employee of the

Office of Juvenile Services, including a supervisor or a juvenile parole officer, other than the parole officer filing the allegations.

(2) The juvenile parolee shall receive notice of the preliminary hearing, its purpose, and the alleged violations prior to the commencement of the hearing. The juvenile parolee may present relevant information, question adverse witnesses, and make a statement regarding the alleged parole violations. The rules of evidence shall not apply at such hearings and the hearing officer may rely upon any available information.

(3) The hearing officer shall determine whether there is probable cause to believe that the juvenile has violated a term or condition of his or her parole and shall issue that decision in writing. The decision shall either indicate there is not probable cause to believe that the juvenile parolee has violated the terms of his or her parole and dismiss the allegations and return the juvenile to parole supervision, or it shall indicate there is probable cause to believe that the juvenile has violated a condition of parole and state where the juvenile will be held pending the revocation hearing. The preliminary hearing officer shall consider the seriousness of the alleged violation, the public safety, and the best interests of the juvenile in determining where the juvenile shall be held pending the revocation hearing.

Sec. 52. Any hearing required or permitted for juveniles in the custody of the Office of Juvenile Services, except a preliminary parole revocation hearing, shall be conducted by a hearing officer who is an attorney licensed to practice law in the State of Nebraska and may be an employee of the Department of Health and Human Services or an attorney who is an independent contractor. If the hearing officer is an employee of the department, he or she shall not be assigned to any duties requiring him or her to give ongoing legal advice to any person employed by or who is a contractor with the office.

Sec. 53. When a juvenile is charged with being in violation of a condition of his or her parole, the juvenile is entitled to:

(1) Notice of the alleged violations of parole at least twenty-four hours prior to a hearing on the allegations. Such notice shall contain a concise statement of the purpose of the hearing and the factual allegations upon which evidence will be offered;

(2) A prompt hearing, within fourteen days after the preliminary hearing, if the juvenile is being held pending the hearing;

(3) Reasonable continuances granted by the hearing officer for the juvenile to prepare for the hearing;

(4) Have his or her parents notified of the hearing and allegations and have his or her parents attend the hearing;

(5) Be represented by legal counsel at the expense of the Department of Health and Human Services unless retained legal counsel is available to the juvenile. The department may contract with attorneys to provide such representation to juveniles charged with parole violations;

(6) Compel witnesses to attend, testify on his or her own behalf, present evidence, and cross-examine witnesses against him or her; and

(7) Present a statement on his or her own behalf.

Sec. 54. After receiving notice of the allegations of a violation of parole, being notified of the possible consequences, being informed of his or her rights pertaining to the hearing, and having an opportunity to confer with his or her parents or precommitment custodian and legal counsel, if desired, the juvenile may waive his or her right to a hearing and admit to the allegations. Such waiver and admission shall be in writing and submitted, together with a recommended disposition by the hearing officer, to the Administrator of the Office of Juvenile Services or his or her designee.

Sec. 55. At the parole violation hearing, the hearing officer shall again advise the juvenile of his or her rights and ensure that the juvenile has received the notice of allegations and the possible consequences. Strict rules of evidence shall not be applied. The hearing officer shall determine whether the detention of the juvenile or other restrictions are necessary for the safety of the juvenile or for the public safety and shall indicate to what extent the juvenile will continue to be detained or restricted pending a final decision and administrative appeal. The hearing officer shall issue a written recommended disposition to the Administrator of the Office of Juvenile Services or his or her designee who shall promptly affirm, modify, or reverse the recommended disposition. The final decision of the administrator or his or her designee may be appealed pursuant to the Administrative Procedure Act. The Department of Health and Human Services shall be deemed to have acted within its jurisdiction if its action is in the best interests of the juvenile with due consideration being given to public safety. The appeal shall in all other respects be governed by the Administrative Procedure Act.

Sec. 56. Section 48-647, Revised Statutes Supplement, 1997, is amended to read:

48-647. (1) Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under sections 48-623 to 48-626 shall be void except as set forth in this section. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his or her spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void. Any assignment, pledge, or encumbrance of any right or claim to contributions or to any money credited to any employer's reserve account in the Unemployment Compensation Fund shall be void, and the same shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt, and any waiver of any exemption provided for in this section shall be void.

(2)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes child support obligations as defined under subdivision (h) of this subsection. If such individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the Director of Health and Human Services that the individual has been determined to be eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation otherwise payable to an individual disclosing child support obligations:

(i) The amount specified by the individual to the commissioner to be deducted under this subsection, if neither subdivision (ii) nor (iii) of this subdivision is applicable;

(ii) The amount, if any, determined pursuant to an agreement between the director and such individual owing the child support obligations to have a specified amount withheld and such agreement being submitted to the commissioner, unless subdivision (iii) of this subdivision is applicable; or

(iii) The amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in subdivision (2)(i) of this section, properly served upon the commissioner.

(c) Any amount deducted and withheld under subdivision (b) of this subsection shall be paid by the commissioner to the director.

(d) Any amount deducted and withheld under subdivision (b) or (g) of this subsection shall for all purposes be treated as if it were paid to the individual as unemployment compensation and paid by such individual to the director in satisfaction of his or her child support obligations.

(e) For purposes of subdivisions (a) through (d) and (g) of this subsection, the term unemployment compensation shall mean any compensation payable under the Employment Security Law and including amounts payable by the commissioner pursuant to an agreement by any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection shall apply only if appropriate arrangements have been made for reimbursement by the Department of Health and Human Services for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the department.

(g) The director and the commissioner shall develop and implement a collection system to carry out the intent of this subdivision. The system shall, at a minimum, provide that:

(i) The commissioner shall periodically notify the director of the information listed in section 43-1719 with respect to individuals determined to be eligible for unemployment compensation during such period;

(ii) Unless the county attorney, the authorized attorney, or the Department of Health and Human Services has sent a notice on the same support order under section 43-1720, upon the notification required by subdivision (2)(g)(i) of this section, the director shall send notice to any such individual who owes child support obligations and who is subject to income withholding pursuant to subdivision (2)(a), (2)(b)(ii), or (2)(b)(iii) of section 43-1718.01. The notice shall be sent by certified mail to the last-known address of the individual and shall state the same information as required under section 43-1720;

(iii)(A) If the support obligation is not based on a foreign support

order entered pursuant to section 43-1729 and the individual requests a hearing, the Department of Health and Human Services shall hold a hearing within fifteen days of the date of receipt of the request. The hearing shall be in accordance with the Administrative Procedure Act. The assignment shall be held in abeyance pending the outcome of the hearing. The department shall notify the individual and the commissioner of its decision within fifteen days of the date the hearing is held; and

(B) If the support obligation is based on a foreign support order entered pursuant to section 43-1729 and the individual requests a hearing, the county attorney or authorized attorney shall apply the procedures described in sections 43-1732 to 43-1742;

(iv) (A) If no hearing is requested by the individual under this subsection or pursuant to a notice sent under section 43-1720, (B) if after a hearing under this subsection or section 43-1721 the department determines that the assignment should go into effect, (C) in cases in which the court has ordered income withholding for child support pursuant to subsection (1) of section 43-1718.01, or (D) in cases in which the court has ordered income withholding for child support pursuant to section 43-1718.02 and the case subsequently becomes one in which child support collection services are being provided under Title IV-D of the federal Social Security Act, as amended, the director shall certify to the commissioner the amount to be withheld for child support obligations from the individual's unemployment compensation. Such amount shall not in any case exceed the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount withheld to satisfy an arrearage of child support when added to the amount withheld to pay current support shall not exceed such maximum amount;

(v) The collection system shall comply with the requirements of Title III and Title IV-D of the federal Social Security Act, as amended;

(vi) The collection system shall be in addition to and not in substitution for or derogation of any other available remedy; and

(vii) The director and the commissioner shall adopt and promulgate rules and regulations to carry out subdivision (2)(g) of this section.

(h) For purposes of this subsection, the term child support obligations shall include only obligations which are being enforced pursuant to a plan described in section 454 of the federal Social Security Act which has been approved by the Secretary of Health and Human Services under Part D of Title IV of the federal Social Security Act.

(i) For purposes of this subsection, the term legal process shall mean any writ, order, summons, or other similar process in the nature of garnishment, which:

(i) Is issued by a court of competent jurisdiction of any state, territory, or possession of the United States or an authorized official pursuant to order of such a court of competent jurisdiction or pursuant to state law. For purposes of this subdivision, the Director of Health and Human Services shall be deemed an authorized official pursuant to order of a court of competent jurisdiction or pursuant to state law; and

(ii) Is directed to, and the purpose of which is to compel, the commissioner to make a payment for unemployment compensation otherwise payable to an individual in order to satisfy a legal obligation of such individual to provide child support.

(j) Nothing in this subsection shall be construed to authorize withholding from unemployment compensation of any support obligation other than child support obligations.

(3)(a) An individual filing a new claim for unemployment compensation shall, at the time of filing such claim, disclose whether or not he or she owes an uncollected overissuance, as defined in section 13(c)(1) of the federal Food Stamp Act of 1977, of food stamp ~~coupons~~ benefits, if not otherwise known or disclosed to the state food stamp agency. The commissioner shall notify the state food stamp agency enforcing such obligation of any individual disclosing that he or she owes an uncollected overissuance whom the commissioner determines is eligible for unemployment compensation.

(b) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes an uncollected overissuance (i) the amount specified by the individual to the commissioner to be deducted and withheld under this subsection, (ii) the amount, if any, determined pursuant to an agreement submitted to the state food stamp agency under section 13(c)(3)(A) of the federal Food Stamp Act of 1977, or (iii) any amount otherwise required to be deducted and withheld from unemployment compensation pursuant to section 13(c)(3)(B) of such federal act.

(c) Any amount deducted and withheld under this subsection shall be paid by the commissioner to the state food stamp agency.



(d) Any amount deducted and withheld under subdivision (b) of this subsection shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by such individual to the state food stamp agency as repayment of the individual's uncollected overissuance.

(e) For purposes of this subsection, unemployment compensation means any compensation payable under the Employment Security Law, including amounts payable by the commissioner pursuant to an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(f) This subsection applies only if arrangements have been made for reimbursement by the state food stamp agency for the administrative costs incurred by the commissioner under this subsection which are attributable to the repayment of uncollected overissuances to the state food stamp agency.

Sec. 57. Section 68-1016, Reissue Revised Statutes of Nebraska, is amended to read:

68-1016. The Director of Health and Human Services shall provide for granting an opportunity for a fair hearing before the Department of Health and Human Services to any individual whose claim for assistance to the aged, blind, or disabled, aid to dependent children, emergency assistance, medical assistance, commodities, or food stamps ~~stamp benefits~~ is denied, is not granted in full, or is not acted upon with reasonable promptness. An appeal shall be taken by filing with the director a written notice of appeal setting forth the facts on which the appeal is based. The director shall thereupon, in writing, notify the appellant of the time and place for hearing which shall be not less than one week nor more than six weeks from the date of such notice. Hearings shall be before the director or his or her duly authorized agent. On the basis of evidence adduced, the director shall enter a final order on such appeal, which order shall be transmitted to the appellant.

Sec. 58. Section 68-1017, Reissue Revised Statutes of Nebraska, is amended to read:

68-1017. Any person, including vendors and providers of medical assistance and social services, who, by means of a willfully false statement or representation, or by impersonation or other device, obtains or attempts to obtain, or aids or abets any person to obtain or to attempt to obtain (1) an assistance certificate of award to which he or she is not entitled, (2) any commodity, any foodstuff, any food coupon, any food stamp coupon, electronic benefit, or electronic benefit card, or a any payment to which such individual is not entitled or a larger payment than that to which he or she is entitled, (3) any payment made on behalf of a recipient of medical assistance or social services, or (4) any other benefit administered by the Department of Health and Human Services or the Department of Health and Human Services Finance and Support, or who violates any statutory provision relating to assistance to the aged, blind, or disabled, aid to dependent children, social services, or medical assistance, commits an offense and shall upon conviction be punished as follows: (a) If the aggregate value of all funds or other benefits obtained or attempted to be obtained is less than five hundred dollars, the person so convicted shall be guilty of a Class III misdemeanor; or (b) if the aggregate value of all funds and other benefits obtained or attempted to be obtained is five hundred dollars or more, the person so convicted shall be guilty of a Class IV felony.

Sec. 59. Section 68-1017.01, Reissue Revised Statutes of Nebraska, is amended to read:

68-1017.01. (1) A person commits an offense if he or she knowingly uses, alters, or transfers any food stamp coupons, electronic benefits, or electronic benefit cards or any authorizations to participate in the food stamp program in any manner not authorized by law. An offense under this subsection shall be a Class III misdemeanor if the value of the coupons, electronic benefits, electronic benefit cards, or authorizations is less than five hundred dollars and shall be a Class IV felony if the value ~~of coupons or authorizations~~ is five hundred dollars or more.

(2) A person commits an offense if he or she knowingly (a) possesses any food stamp coupons, electronic benefits, or electronic benefit cards or any authorizations to participate in the food stamp program when such individual is not authorized by law to possess them, (b) redeems food stamp coupons, electronic benefits, or electronic benefit cards when he or she is not authorized by law to redeem them, or (c) redeems food stamp coupons, electronic benefits, or electronic benefit cards for purposes not authorized by law. An offense under this subsection shall be a Class III misdemeanor if the value of the coupons, electronic benefits, electronic benefit cards, or authorizations is less than five hundred dollars and shall be a Class IV felony if the value ~~of the coupons or authorizations~~ is five hundred dollars

or more.

(3) A person commits an offense if he or she knowingly possesses blank authorizations to participate in the food stamp program when such possession is not authorized by law. An offense under this subsection shall be a Class IV felony.

(4) When any food stamp coupons, electronic benefits, or electronic benefit cards or any authorizations to participate in the food stamp program of various values are obtained in violation of this section pursuant to one scheme or a continuing course of conduct, whether from the same or several sources, such conduct may be considered as one offense, and the values aggregated in determining the grade of the offense.

Sec. 60. Section 68-1019, Reissue Revised Statutes of Nebraska, is amended to read:

68-1019. (1) Medical assistance on behalf of recipients shall be paid directly to vendors.

(2) On behalf of recipients over sixty-five years of age, medical assistance shall include care in an institution for mental diseases.

(3) On behalf of all recipients, medical assistance shall include:

(a) Inpatient and outpatient hospital care;

(b) Laboratory and X-ray services;

(c) Nursing home services;

(d) Care home services;

(e) Home health care services;

(f) Nursing services;

(g) Clinic services;

(h) Services of practitioners licensed by the Department of Health and Human Services Regulation and Licensure; and

(i) Such drugs, appliances, and health aids as may be prescribed by practitioners licensed by the Department of Health and Human Services Regulation and Licensure.

(4) The Director of Finance and Support shall ~~may~~ adopt a schedule of copayments and deductibles for goods and services provided under the medical assistance program as may be allowed by Title XIX of the federal Social Security Act. The system of copayments and deductibles in the schedule shall discourage abuse of high-cost services and encourage the utilization of cost-effective services. Prior to the adoption of the schedule of copayments and deductibles, the director shall provide a report to the Governor and the Legislature outlining proposed copayments and deductibles. The report shall collect and summarize available data from other states concerning their experience with copayments and deductibles, determine if vendors may be reimbursed for copayments and deductibles resulting from a recipient's inability to pay, evaluate the collectability of copayments and deductibles, and assess the effect of copayments and deductibles on recipients, vendors, access to and availability of care, and utilization of affected medical assistance program services. The report shall include data from Nebraska as it becomes available. The report shall also provide information as to other cost-containment mechanisms which have been implemented or proposed by the Department of Health and Human Services Finance and Support for the fiscal year. The If the director is proposing to adopt a schedule, the report shall be provided to the Governor and the Legislature by December 1, of each year. No schedule of copayments and deductibles shall be put into effect until July 1 following the report, except that for the first year the schedule shall be put into effect by April 1. If the director is proposing elimination or modification of an existing schedule of copayments and deductibles, a report on the proposed changes shall be provided to the Governor and the Legislature by December 1. The proposed modification or elimination of the schedule of copayments and deductibles shall not take place prior to the July 1 following this report. A vendor shall be responsible for collecting any applicable copayment or deductible from the recipient.

(5) The Director of Finance and Support shall provide limits as to the amount, duration, and scope of services and goods recipients may receive under the medical assistance program. For purposes of providing limits as to the amount, duration, and scope of services and goods recipients may receive under the medical assistance program, the Department of Health and Human Services Finance and Support shall adopt and promulgate rules and regulations. The limits adopted shall in all respects comply with applicable provisions of Title XIX of the federal Social Security Act and the related federal regulations, as they may be amended from time to time. Prior to the adoption of such rules and regulations, the director shall provide a report to the Governor and the Legislature outlining proposed limits. Such report shall be provided to the Governor and the Legislature by December 1, of each year. No rules or regulations to implement such limits shall be put into effect until

April 1 following the report.

(6) No vendor shall advertise or promote through newspapers, magazines, circulars, direct mail, directories, radio, television, or otherwise that such vendor will waive the collection of all or any portion of any copayment or deductible established pursuant to subsection (4) of this section.

Sec. 61. Section 68-1070, Revised Statutes Supplement, 1997, is amended to read:

68-1070. (1) If the following non-United-States citizens meet the income and other requirements for participation in the medical assistance program established under sections 68-1018 to 68-1026, in the program for financial assistance pursuant to section 43-512, in the food stamp assistance program administered by the State of Nebraska pursuant to the federal Food Stamp Act, or in the program for assistance to the aged, blind, and disabled, such persons shall be eligible for such program or benefits:

(a) Non-United-States citizens lawfully admitted, regardless of the date entry was granted, into the United States for permanent residence;

(b) Refugees admitted under section 207 of the federal Immigration and Naturalization Act, non-United-States citizens granted asylum under section 208 of such federal act, and non-United-States citizens whose deportation is withheld under section 243(h) of such federal act, regardless of the date of entry into the United States; and

(c) Individuals for whom coverage is mandated under federal law.

(2) Individuals eligible for food stamp assistance under this section shall receive any food stamp coupons or electronic benefits or a state voucher which can be used only for food products authorized under the federal Food Stamp Act, in the amount of the food stamp benefit for which this individual was otherwise eligible but for the citizenship provisions of Public Law 104-193, 110 Stat. 2105 (1996).

(3) The income and resources of any individual who assists a non-United-States citizen to enter the United States by signing an affidavit of support shall be deemed available in determining the non-United-States citizen's eligibility for assistance until the non-United-States citizen becomes a United States citizen.

Sec. 62. Section 71-1.142, Revised Statutes Supplement, 1997, is amended to read:

71-1.142. For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy shall mean (a) the interpretation and evaluation of prescription orders, (b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices, (c) the participation in drug selection, drug utilization review, drug source selection, and drug administration, (d) the proper and safe storage of drugs and devices and the maintenance of proper records therefor, (e) patient counseling, (f) the provision of pharmaceutical care, and (g) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. The active practice of pharmacy shall mean the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(2) Administration shall mean the direct application of a drug or device by injection, inhalation, ingestion, or other means to the body of a patient;

(3) Board of pharmacy or board shall mean the Board of Examiners in Pharmacy;

(4) Caregiver shall mean any person acting as an agent on behalf of a patient or any person aiding and assisting a patient;

(5) Compounding shall mean the preparation, mixing, or assembling of a drug or device (a) as the result of a practitioner's prescription order or initiative occurring in the course of professional practice based upon the relationship between the practitioner, patient, and pharmacist or (b) for the purpose of, or incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding shall include the preparation of drugs or devices in anticipation of prescription orders based upon routine, regularly observed prescribing patterns;

(6) Deliver or delivery shall mean the actual, constructive, or attempted transfer of a drug or device from one person to another, whether or not for consideration;

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

(8) Device shall mean an instrument, apparatus, implement, machine,

contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is prescribed by a medical practitioner and dispensed by a pharmacist or other person authorized by law to do so;

(9) Dialysis drug or device distributor shall mean a manufacturer or wholesaler who provides dialysis drugs, solutions, supplies, or devices, to persons with chronic kidney failure for self-administration at the person's home or specified address, upon the order of a medical practitioner;

(10) Dialysis drug or device distributor worker shall mean a person working for a dialysis drug or device distributor operating with a drug dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task or tasks of assembling, labeling, or delivering a patient order;

~~(11)~~ (9) Dispense or dispensing shall mean the preparation and delivery of a drug or device pursuant to a lawful order of a medical practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the drug or device;

~~(10)~~ (12) Distribute shall mean the delivery of a drug or device other than by administering or dispensing;

~~(11)~~ (13) Drug dispensing permit shall mean a permit issued by the department upon the recommendation of the board to a public health clinic or a dialysis drug or device distributor which allows for the dispensing of drugs and devices in the formulary approved pursuant to section 71-1,147.48;

~~(12)~~ (14) Person shall mean an individual, corporation, partnership, limited liability company, association, or other legal entity;

~~(13)~~ (15) Labeling shall mean the process of preparing and affixing a label to any drug container or device container, exclusive of the labeling by a manufacturer, packer, or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label shall include all information required by federal and state law or regulation;

~~(14)~~ (16) Pharmaceutical care shall mean the provision of drug therapy for the purpose of achieving therapeutic outcomes that improve a patient's quality of life. Such outcomes shall include (a) the cure of disease, (b) the elimination or reduction of a patient's symptomatology, (c) the arrest or slowing of a disease process, or (d) the prevention of a disease or symptomatology. Pharmaceutical care shall include the process through which the pharmacist works in concert with the patient and his or her caregiver, physician, or other professionals in designing, implementing, and monitoring a therapeutic plan that will produce specific therapeutic outcomes for the patient;

~~(15)~~ (17) Pharmacist shall mean any person who (a) is licensed by the State of Nebraska to practice pharmacy or (b) is primarily responsible for providing pharmaceutical care as defined in subdivision ~~(14)~~ (16) of this section;

~~(16)~~ (18) Pharmacy shall mean (a) any establishment, place, or location advertised as a pharmacy, drug store, hospital pharmacy, dispensary, apothecary, or any combination of such titles or any establishment where the practice of pharmacy is carried on except as exempted in section 71-1,143 and (b) any establishment, place, or location used as a pick-up point or drop point, including kiosks, for prescriptions to be filled or where prescribed drugs or devices are made ready for delivery to the patient, but shall not include an emergency box located within an institution pursuant to the provisions of the Emergency Box Drug Act;

~~(17)~~ (19) Drugs, medicines, and medicinal substances shall mean (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them, (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans or animals, (c) articles, except food, intended to affect the structure or any function of the body of a human or an animal, (d) articles intended for use as a component of any articles specified in subdivision (a), (b), or (c) of this subdivision, except any device or its components, parts, or accessories, and (e) prescription drugs as defined in subdivision ~~(12)~~ (24) of this section;

~~(18)~~ (20) Medical practitioner shall mean any licensed physician, surgeon, podiatrist, dentist, or other person licensed to write prescriptions intended for treatment or prevention of disease or to affect body function in humans or animals;

~~(19)~~ (21) Patient counseling shall mean the verbal communication by a pharmacist, in a manner reflecting dignity and the right of the patient to a reasonable degree of privacy, of information to the patient or caregiver in

order to improve therapeutic outcomes by maximizing proper use of prescribed drugs and devices and shall also include the duties set out in subsection (2) of section 71-1,147.35;

~~(20)~~ (22) Pharmacist in charge shall mean a pharmacist licensed by the State of Nebraska to practice pharmacy who has been designated on a pharmacy permit or designated by a public or private hospital licensed by the department as being responsible for the practice of pharmacy in the pharmacy for which such permit is issued or such hospital's inpatient pharmacy and who shall work within the physical confines of such pharmacy for a majority of the hours per week that the pharmacy is open for business averaged over a twelve-month period or thirty hours per week, whichever is less;

~~(21)~~ (23) Pharmacy intern shall mean (a) a student currently enrolled in an accredited college or school of pharmacy or (b) a graduate of an accredited college or school of pharmacy serving his or her internship, such internship to expire not later than fifteen months after the date of graduation or at the time of professional licensure, whichever comes first. Such pharmacy intern may compound and dispense drugs or devices and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist. Such licensed pharmacist shall either be (i) the person to whom the pharmacy permit is issued or a person in the actual employ of the permittee or (ii) the pharmacist in charge designated by a public or private institution licensed as a hospital by the department which is not required to obtain a permit pursuant to section 71-1,147.01 or a person in the actual employ of such institution;

~~(22)~~ (24) Prescription drug or legend drug shall mean (a) a drug which under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements: (i) Caution: Federal law prohibits dispensing without prescription; or (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian or (b) a drug which is required by any applicable federal or state law or regulation to be dispensed on prescription only or is restricted to use by medical practitioners only;

~~(23)~~ (25) Prescription order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug or device but shall not include an order for a drug or device which is dispensed for administration to a patient during the patient's stay in a hospital;

~~(24)~~ (26) Nonprescription drugs shall mean nonnarcotic medicines or drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of this state and the federal government;

~~(25)~~ (27) Public health clinic worker shall mean a person in a public health clinic operating with a drug dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task of dispensing authorized refills of oral contraceptives;

~~(26)~~ (28) Public health clinic shall mean the department, any county, city-county, or multicounty health department, or any private not-for-profit family planning clinic licensed as a health clinic as defined in section 71-2017.01;

~~(27)~~ (29) Supervision shall mean the immediate personal guidance and direction by the licensed pharmacist on duty in the facility of the performance by supportive pharmacy personnel of authorized activities or functions subject to verification by such pharmacist, except that when supportive pharmacy personnel perform authorized activities or functions to assist a pharmacist on duty in the facility when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a licensed physician assistant to patients or residents of a health care facility licensed pursuant to sections 71-2017 to 71-2029, the activities or functions of such supportive pharmacy personnel shall only be subject to verification by a pharmacist on duty in the facility;

~~(28)~~ (30) Supportive pharmacy personnel shall mean individuals at least eighteen years of age who are high school graduates or officially recognized by the State Department of Education as possessing the equivalent degree of education, who have never been convicted of any drug-related misdemeanor or felony, and who, under the written control procedures and guidelines of an employing pharmacy and who have received onsite training pursuant to subsection (4) of section 71-1,147.33, may perform those functions which do not require the exercise of professional judgment in assisting a pharmacist in connection with the preparation, compounding, dispensing, and distribution of drugs or devices under the supervision of a licensed pharmacist on duty in the facility, when such functions are subject to verification. The ratio of supportive pharmacy personnel allowed to assist one pharmacist in the preparation, compounding, dispensing, and distribution

of drugs or devices shall not exceed one-to-one, except that a two-to-one ratio may apply to supportive pharmacy personnel assisting a pharmacist in circumstances when the prescribed drugs or devices will be administered by a licensed staff member or consultant or by a licensed physician assistant to patients of a hospital licensed pursuant to sections 71-2017 to 71-2029. Under no circumstances shall the ratio exceed two supportive pharmacy personnel to one supervising pharmacist;

~~(29)~~ (31) Verification shall mean the confirmation by the supervising pharmacist of the accuracy and completeness of the acts, tasks, or functions undertaken by supportive pharmacy personnel to assist the pharmacist in the practice of pharmacy. Verification by the supervising pharmacist shall be documented prior to the time when the drug or device is dispensed; and

~~(30)~~ (32) Written control procedures and guidelines shall mean the document prepared by an employing pharmacy and approved by the board which specifies the manner in which the qualifications of supportive pharmacy personnel employed by the pharmacy are determined, the manner in which the training of such personnel is conducted and their basic level of competency is confirmed, the manner in which supervision is provided, the manner in which the functions of supportive pharmacy personnel are verified, and a protocol governing the use of supportive pharmacy personnel and the functions which they may perform.

Sec. 63. Section 71-1,147.35, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.35. (1)(a) Prior to the dispensing or the delivery of each new or refill prescription to a patient or caregiver, a pharmacist shall in all care settings conduct a prospective drug utilization review. Such prospective drug utilization review shall involve monitoring the patient-specific medical history described in subdivision (b) of this subsection and available to the pharmacist at the practice site for:

- (i) Therapeutic duplication;
- (ii) Drug-disease contraindications;
- (iii) Drug-drug interactions;
- (iv) Incorrect drug dosage or duration of drug treatment;
- (v) Drug-allergy interactions; and
- (vi) Clinical abuse or misuse.

A pharmacist conducting a prospective drug utilization review shall ensure that a reasonable effort is made to obtain from the patient, his or her caregiver, or his or her physician and to record and maintain records of the following information to facilitate such review:

- (i) The name, address, telephone number, date of birth, and gender of the patient;
- (ii) The patient's history of significant disease, known allergies, and drug reactions and a comprehensive list of relevant drugs and devices used by the patient; and
- (iii) Any comments of the pharmacist relevant to the patient's drug therapy.

(c) The assessment of data on drug use in any prospective drug utilization review shall be based on predetermined standards, approved by the department upon the recommendation of the board, and consistent with the following:

- (i) Compendia which shall consist of the following:
  - (A) American Hospital Formulary Service Drug Information;
  - (B) United States Pharmacopeia-Drug Pharmacopeia-Dispensing Information; and
  - (C) American Medical Association Drug Evaluations; and
- (ii) The peer-reviewed medical literature.

(2)(a) Prior to the dispensing or delivery of each new or refill prescription, the pharmacist shall ensure that a verbal offer to counsel the patient or caregiver is made. The counseling of the patient or caregiver by the pharmacist shall be on elements which, in the exercise of the pharmacist's professional judgment, the pharmacist deems significant for the patient. Such elements may include, but need not be limited to, the following:

- (i) The name and description of the prescribed drug;
- (ii) The route of administration, dosage form, dosage, and duration of therapy;
- (iii) Special directions and precautions for preparation, administration, and use by the patient;
- (iv) Common side effects, adverse effects or interactions, and therapeutic contraindications that may be encountered, including avoidance and the action required if such effects, interactions, or contraindications occur;
- (v) Techniques for self-monitoring drug therapy;
- (vi) Proper storage;

(vii) Prescription refill information; and

(viii) Action to be taken in the event of a missed dose.

(b) The counseling provided for in subdivision (a) of this subsection shall be provided in person whenever practical or by the utilization of telephone service which is available at no cost to the patient or caregiver.

(c) Patient counseling shall be appropriate to the individual patient and shall be provided to the patient or caregiver.

(d) Written information may be provided to the patient or caregiver to supplement the counseling provided for in subdivision (a) of this subsection but shall not be used as a substitute for such counseling. If written information is provided, it shall also include all information found on the prescription label.

(e) Nothing in this subsection shall be construed to require a pharmacist to provide the counseling called for by subdivision (a) of this subsection when:

(i) The patient or caregiver refuses such counseling;

(ii) The pharmacist, in his or her professional judgment, determines that such counseling may be detrimental to the patient's care or to the relationship between the patient and his or her physician;

(iii) The patient is a patient or resident of a health care facility licensed pursuant to sections 71-1201 to 71-1229 to whom prescribed drugs or devices are administered by a licensed or certified staff member or consultant or a certified physician's assistant; or

(iv) The medical practitioner duly authorized to prescribe drugs or devices specifies manually on the face of the written prescription or by telephonic communication on each prescription that there shall be no patient counseling unless he or she is contacted prior to such counseling. The pharmacist shall note "Contact Before Counseling" on the face of the prescription if such is communicated orally by the prescribing medical practitioner.

Sec. 64. Section 71-1,147.39, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.39. (1)(a) All public health clinics which dispense legend drugs or devices shall either have a current permit to conduct a pharmacy or a current drug dispensing permit.

(b) Separate drug dispensing permits shall be required for public health clinics maintained on separate premises even though operated under the same management. A separate drug dispensing permit shall not be required for an ancillary facility which offers intermittent services, which is staffed by personnel from the public health clinic site for which a drug dispensing permit has been issued, and at which no legend drugs or devices are stored.

(2) All dialysis drug or device distributors shall have a current drug dispensing permit.

Sec. 65. Section 71-1,147.40, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.40. A public health clinic or dialysis drug or device distributor may apply to the department for a drug dispensing permit required by section 71-1,147.39. The application shall include the address of the public health clinic or dialysis drug or device distributor, the name and license number of the pharmacist who will assume the responsibilities of consultant pharmacist for the public health clinic or dialysis drug or device distributor as required by sections 71-1,147.50 and 71-1,147.51, and any other information required by the board.

Sec. 66. Section 71-1,147.41, Revised Statutes Supplement, 1997, is amended to read:

71-1,147.41. (1)(a) No fee shall be required for issuance of a drug dispensing permit to a public health clinic.

The applicant (b) A public health clinic shall pay an initial inspection fee and subsequent annual inspection fees in an amount determined by the department based upon the actual costs of the inspection but not less than fifty dollars nor more than three hundred dollars.

(c) In addition, each permittee public health clinic which has a drug dispensing permit shall share equally in the actual cost of maintaining the Public Health Clinic Formulary Advisory Committee, which cost shall be billed annually to the permittees such public health clinics by the department.

(2) A dialysis drug or device distributor shall pay an initial permit fee and an annual renewal fee for a drug dispensing permit equivalent to the fee which a pharmacy pays for a permit pursuant to section 71-1,147.07.

(3) All fees and costs collected by the department under this section shall be remitted to the State Treasurer for credit to the Nebraska

Pharmaceutical Fund.

Sec. 67. Section 71-1,147.42, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.42. If a complaint is filed against a public health clinic or a dialysis drug or device distributor or any staff member, public health clinic worker, dialysis drug or device distributor worker, volunteer, or consultant in association with work performed under a drug dispensing permit and if the complaint is found to be valid, the cost of investigating the complaint and any followup inspections shall be calculated by the board based upon the actual costs incurred and the cost shall be borne by the public health clinic or dialysis drug or device distributor being investigated. All costs collected by the department shall be remitted to the State Treasurer for credit to the Nebraska Pharmaceutical Fund. If the complaint is not found to be valid, the cost of the investigation shall be paid from the fund.

Sec. 68. Section 71-1,147.43, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.43. (1) The department may deny an application for a drug dispensing permit, revoke or suspend a permit, or refuse renewal of a permit with respect to a public health clinic on any of the following grounds:

(a) ~~(1)~~ Conviction of any crime involving moral turpitude;  
 (b) ~~(2)~~ Obtaining a permit by false representation or fraud;  
 (c) ~~(3)~~ Operating a public health clinic without a consultant pharmacist responsible for the duties specified in sections 71-1,147.50 and 71-1,147.51;

(d) ~~(4)~~ Failure to pass an initial or annual inspection;  
 (e) ~~(5)~~ Failure to pay inspection costs;  
 (f) ~~(6)~~ Failure to pay any fee required by section 71-1,147.41;  
 (g) ~~(7)~~ Use of unauthorized persons in the dispensing or administration of drugs or devices;  
 (h) ~~(8)~~ The compounding and dispensing of drugs or devices or the filling of a prescription by a person other than a licensed pharmacist or by an intern in pharmacy, without the presence of and the immediate personal supervision of a licensed pharmacist except as provided in section 71-1,147.33 or 71-1,147.53;

(i) ~~(9)~~ The dispensing of any drug or device not listed in the approved formulary or failure to provide patient information;  
 (j) ~~(10)~~ A conviction of a violation of sections 71-1,142 to 71-1,147.61 or of a felony or, if a natural person, the revocation or suspension of a drug dispensing permit;

(k) ~~(11)~~ Unprofessional conduct which shall include, but not be limited to:

(i) ~~(a)~~ Misrepresentation or fraud in the conduct of a public health clinic;  
 (ii) ~~(b)~~ Aiding or abetting an unlicensed person to practice pharmacy;

(iii) ~~(c)~~ The dispensing without a prescription of a drug or device which under state or federal law or regulation is prohibited from being dispensed without a prescription or the renewal of such a prescription without the authorization of the prescriber;

(iv) ~~(d)~~ The dispensing of a different drug or device in place of the drug or device ordered or prescribed without the express permission of the person ordering or prescribing the same; or

(v) ~~(e)~~ Any fraudulent act in drug product selection whereby the purchaser is charged for the prescribed brand rather than the selected product which is deemed to be chemically and therapeutically equivalent;

(l) ~~(12)~~ Violation of the rules and regulations governing the practice of pharmacy as adopted and promulgated under authority of section 71-1,147.09 by the department; and

(m) ~~(13)~~ Suggesting, soliciting, ordering, assisting, or abetting a pharmacist in the commission of any of the offenses set forth in sections 71-147 and 71-148.

(2) The department may deny an application for a drug dispensing permit, revoke or suspend a permit, or refuse renewal of a permit with respect to a dialysis drug or device distributor on any of the following grounds:

(a) Conviction of any crime involving moral turpitude;  
 (b) Obtaining a permit by false representation or fraud;  
 (c) Operating a dialysis drug or device distributor facility without a consultant pharmacist responsible for the duties specified in sections 71-1,147.50 and 71-1,147.51;

(d) Failure to pass an initial or annual inspection;  
 (e) Failure to pay any fee required by section 71-1,147.41;  
 (f) Conviction of a violation of sections 71-1,142 to 71-1,147.61



applicable to dialysis drug or device distributors or of a felony or, if a natural person, the revocation or suspension of a drug dispensing permit;

(g) Unprofessional conduct which shall include, but not be limited to, the dispensing without a prescription of a drug or device which under state or federal law or regulation is prohibited from being dispensed without a prescription or the renewal of such a prescription without the authorization of the prescriber; and

(h) Violation of the rules and regulations governing the practice of pharmacy applicable to dialysis drug or device distributors as adopted and promulgated under authority of section 71-1,147.09 by the department.

Sec. 69. Section 71-1,147.44, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.44. (1) If the department determines to deny an application for a drug dispensing permit or to revoke, suspend, or refuse renewal of a permit with respect to a public health clinic or a dialysis drug or device distributor, it shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, revocation, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or permittee, within such thirty-day period, requests a hearing in writing. The applicant or permittee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or permittee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or permittee within such thirty-day period appeals the decision pursuant to section 71-1,147.46.

(2) The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations adopted and promulgated by the department. The proceedings shall be summary in nature and triable as equity actions. Affidavits may be received in evidence in the discretion of the Director of Regulation and Licensure. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party.

Sec. 70. Section 71-1,147.45, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.45. (1) Upon the completion of any hearing with respect to a public health clinic or a dialysis drug or device distributor pursuant to section 71-1,147.44, the director shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers:

(a) Issue a censure or reprimand against the permittee;

(b) Suspend judgment;

(c) Place the permittee on probation;

(d) Place a limitation or limitations on the permit and upon the right of the permittee to dispense drugs or devices to the extent, scope, or type of operation, for such time, and under such conditions as the director finds necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;

(e) Impose a civil penalty not to exceed ten thousand dollars. The amount of the civil penalty, if any, shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any;

(f) Enter an order of suspension of the permit;

(g) Enter an order of revocation of the permit; and

(h) Dismiss the action.

(2) The permittee shall not dispense drugs or devices after a permit is revoked or during the time for which the permit is suspended. If a permit is suspended, the suspension shall be for a definite period of time to be fixed by the director. The permit shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If the permit is revoked, the revocation shall be permanent, except that at any time after the expiration of two years, application may be made for reinstatement by any permittee whose permit has been revoked. The application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board.

The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application.

(3) Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall within thirty days after receipt remit any collected civil penalty to the State Treasurer for credit to the permanent school fund.

Sec. 71. Section 71-1,147.46, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.46. (1) A petition for the revocation or suspension of a drug dispensing permit with respect to a public health clinic or a dialysis drug or device distributor may be filed by the Attorney General or by the county attorney in the county in which the permittee resides or is operating a public health clinic or a dialysis drug or device distributor facility. The petition shall be filed with the board and shall be entitled in the Matter of the Revocation (or suspension) of the Permit of (name of permittee) to dispense drugs and devices. It shall state the charges against the permittee with reasonable definiteness. Upon approval of such petition by the board, it shall be forwarded to the department which shall make an order fixing a time and place for hearing thereon, which shall not be less than ten days nor more than thirty days thereafter. Notice of the filing of such petition and of the time and place of hearing shall be served upon the permittee at least ten days before such hearing.

(2) The notice of charges may be served by any sheriff or constable or by any person especially appointed by the department. The order of revocation or suspension of a permit shall be entered on record and the name of such permittee stricken from the roster of permittees, and the permittee shall not engage in the dispensing of drugs and devices after revocation of the permit or during the time for which it is suspended.

(3) Any permittee shall have the right of appeal from an order of the department denying, revoking, suspending, or refusing renewal of a drug dispensing permit. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 72. Section 71-1,147.48, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.48. (1)(a) Upon the recommendation of the board, which shall be based on the recommendations of the Public Health Clinic Formulary Advisory Committee, the Director of Regulation and Licensure shall approve the formulary to be used by public health clinics operating with a drug dispensing permit.

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

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

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

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

(2)(a) Upon the recommendation of the board, the Director of Regulation and Licensure shall approve a formulary to be used by dialysis drug or device distributors operating with a drug dispensing permit.

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

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

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

Sec. 73. Section 71-1,147.49, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.49. Each public health clinic operating with a drug

dispensing permit shall have a copy of Volumes I and II of the United States Pharmacopoeia-Drug Pharmacopoeia-Dispensing Information which contains all drugs listed in the formulary, one copy of a medical dictionary, and at least one copy of each of the latest revisions of all state laws governing or applicable to the practice of pharmacy and drug dispensing activities in public health clinics. The clinic shall also display the phone number of the ~~Mid-Plains Poison Control Center~~ a poison control center in a conspicuous place.

Sec. 74. Section 71-1,147.50, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.50. (1) All public health clinics or dialysis drug or device distributors which dispense legend drugs and devices pursuant to a drug dispensing permit shall have an actively practicing Nebraska-licensed pharmacist listed as the consultant pharmacist on the permit.

(2) The consultant pharmacist shall be physically in the public health clinic at least once every thirty days and shall be responsible for the security, environment, inventory, and record keeping of all drugs and devices received, stored, or dispensed by the public health clinic.

(3) The consultant pharmacist shall be physically in the dialysis drug or device distributor facility at least once every thirty days and shall be responsible for the distribution, record keeping, labeling, and delivery of all drugs and devices dispensed by the dialysis drug or device distributor.

(4) The consultant pharmacist of a public health clinic shall conduct and document monthly inspections as detailed in subsection (1) of section 71-1,147.51 of inventory, record keeping, storage, security, dispensing, and labeling procedures of all drugs and devices.

(5) The consultant pharmacist of a dialysis drug or device distributor shall conduct and document monthly inspections with respect to all activities and responsibilities detailed in subsection (2) of section 71-1,147.51.

Sec. 75. Section 71-1,147.51, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.51. (1) The consultant pharmacist listed on a drug dispensing permit of a public health clinic shall approve and maintain a policy and procedure manual governing the storage, control, distribution, and dispensing of drugs and devices within the public health clinic. The policy and procedure manual shall include, but not be limited to, directions for and documentation of the following:

- ++ (a) Consultant pharmacist monthly inspection reports;
- ++ (b) Labeling;
- ++ (c) Storage and security of drugs and devices;
- ++ (d) Proper patient instruction;
- +5 (e) Formulary;
- +6 (f) Library resources;
- +7 (g) Record keeping, to include the medical chart;
- +8 (h) Drug recall procedures;
- +9 (i) Policies for licensed or certified health care staff; and
- +10 (j) Policies for public health clinic workers.

The consultant pharmacist shall approve, with documentation, supplemental information and instructions regarding approved formulary drugs and devices dispensed to patients.

The consultant pharmacist shall approve, with documentation, the proficiency of public health clinic workers at the public health clinic for the dispensing of authorized refills of oral contraceptives at least annually. Documentation of proficiency shall be maintained in the employee's personnel file and the policy and procedure manual.

(2) The consultant pharmacist listed on a drug dispensing permit of a dialysis drug or device distributor shall be responsible for the following:

(a) To ensure that only drugs and devices that have been ordered by an authorized prescriber are provided to patients;

(b) To ensure that no drugs or devices are dispensed to a patient until adequate training in the proper use and administration of such drugs or devices has been completed;

(c) To ensure that proper documentation of drug and device distributions and deliveries is maintained by the dialysis drug or device distributor and is made available upon request to practitioners involved in the care of the patient and to the board; and

(d) To maintain a policy and procedure manual which is available for inspection by personnel of the board. The policy and procedure manual shall include (i) a quality assurance program with which to monitor the qualifications, training, and performance of personnel and (ii) a written protocol for the implementation of the delivery system, including methods for supervising drug or device deliveries to patients. With respect to the

written protocol for the implementation of the delivery system, the following procedures shall be included:

(A) Personnel of the dialysis drug or device distributor shall assemble products to be delivered pursuant to the prescriber's order. In assembling such products for delivery, the dialysis drug or device distributor shall take steps necessary to assure the following:

(I) The code numbers and quantities of the products assembled match the code numbers identified in the prescriber's order; and

(II) Any products bearing an expiration date have a minimum of three full months of shelf-life remaining;

(B) An inspection of all drugs and devices shall be made to ensure compliance with the prescriber's order. Dialysis drug or device distributor sealed case lots shall be labeled with the name of the patient, the date, and a control number that serves as a unique patient-identifier number; and

(C) Products ordered by a prescriber and provided to patients shall be delivered either by personnel of the dialysis drug or device distributor or by a carrier authorized by the dialysis drug or device distributor.

Sec. 76. Section 71-1,147.53, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.53. Under a drug dispensing permit issued to a public health clinic, approved formulary drugs and devices may be dispensed by a public health clinic worker or a health care professional licensed in Nebraska to practice medicine and surgery or licensed in Nebraska as a registered nurse, licensed practical nurse, or physician assistant without the onsite services of a pharmacist if:

(1) The initial dispensing of all prescriptions for approved formulary drugs and devices is conducted by a health care professional licensed in Nebraska to practice medicine and surgery or pharmacy or licensed in Nebraska as a registered nurse, licensed practical nurse, or physician assistant;

(2) The drug or device is dispensed pursuant to a prescription written on site by a medical practitioner;

(3) The only prescriptions to be refilled under the drug dispensing permit are prescriptions for oral contraceptives;

(4) Prescriptions are accompanied by patient instructions and written information approved by the Director of Regulation and Licensure;

(5) The dispensing of authorized refills of oral contraceptives is done by a licensed health care professional listed in subdivision (1) of this section or by a public health clinic worker who meets the requirements provided in sections 71-1,147.54 to 71-1,147.56;

(6) All drugs or devices dispensed from a drug dispensing permit site are prepackaged by the manufacturer or ~~on site at the~~ a public health clinic by a pharmacist into the quantity to be prescribed and dispensed at the public health clinic;

(7) All drugs and devices stored, received, or dispensed by public health clinics are properly labeled at all times. Properly labeled ~~shall mean~~ means that the label affixed to the container prior to dispensing contains the following information:

(a) The name of the manufacturer;

(b) The lot number and expiration date from the manufacturer or, if prepackaged by a pharmacist, the lot number and calculated expiration date. Calculated expiration date ~~shall mean~~ means an expiration date on the prepackaged product which is not greater than twenty-five percent of the time between the date of repackaging and the expiration date of the bulk container nor greater than six months from the date of repackaging;

(c) Directions for patient use;

(d) The quantity of drug inside;

(e) The name, strength, and dosage form of the drug; and

(f) Auxiliary labels as needed for proper drug compliance;

(8) The following additional information is added to the label of each container when the drug or device is dispensed:

(a) The patient's name;

(b) The name of the prescribing health care professional;

(c) The prescription number; ~~and~~

(d) The date dispensed; ~~and~~

(e) The name and address of the public health clinic;

(9) The only drugs and devices allowed to be dispensed or stored by public health clinics appear on the formulary approved pursuant to section 71-1,147.48; and

(10) At any time that dispensing is occurring from a public health clinic, the consultant pharmacist for the public health clinic or any other actively practicing pharmacist licensed to practice pharmacy in Nebraska is

available, either in person or by telephone, to answer questions from clients, staff, public health clinic workers, or volunteers. This availability shall be confirmed and documented at the beginning of each day that dispensing will occur. The consultant pharmacist or practicing pharmacist shall inform the public health clinic if he or she will not be available during the time that his or her availability is required. If a pharmacist is unavailable, no dispensing shall occur.

Sec. 77. Section 71-1,147.54, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.54. No person shall act as a public health clinic worker in a public health clinic or as a dialysis drug or device distributor worker for a dialysis drug or device distributor unless the person:

- (1) Is at least eighteen years of age;
- (2) Has earned a high school diploma or the equivalent;
- (3) Has completed approved training as provided in section

71-1,147.55; and

- (4) Has demonstrated proficiency as provided in section 71-1,147.56.

Sec. 78. Section 71-1,147.55, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.55. (1) A consultant pharmacist shall conduct the training of public health clinic workers. The training shall be approved according to the standards determined by the board upon the recommendation of the Public Health Clinic Formulary Advisory Committee. The training shall consist of at least six hours of classroom instruction, including, but not limited to, the following:

- ~~1~~ (a) Procedures for dispensing authorized refills of oral contraceptives;
- ~~2~~ (b) Federal and state laws regarding drug dispensing;
- ~~3~~ (c) Proper labeling of oral contraceptives;
- ~~4~~ (d) Proper record keeping of refilled prescriptions;
- ~~5~~ (e) The actions, drug interactions, and effects of oral contraceptives;
- ~~6~~ (f) Use of Volumes I and II of the United States Pharmacopeia-Drug Pharmacopeia-Dispensing Information;
- ~~7~~ (g) Proper pharmacist referral;
- ~~8~~ (h) Procedures for reaching the on-call pharmacist;
- ~~9~~ (i) Storage and security of approved formulary drugs and devices; and
- ~~10~~ (j) Patient information.

(2) A consultant pharmacist shall conduct training of dialysis drug or device distributor workers. The training shall consist of, but not be limited to, the following:

- (a) An overview of peritoneal dialysis therapies;
- (b) The proper labeling and inspection of home-patient orders;
- (c) The requirements of applicable Nebraska law; and
- (d) Patient information.

(3) The public health clinic, the dialysis drug or device distributor, and the consultant pharmacist shall be responsible to assure that approved training has occurred and is documented. Documentation of training shall be maintained in the employee's personnel file and in the policy and procedure manual.

Sec. 79. Section 71-1,147.56, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.56. (1)(a) The public health clinic worker shall demonstrate proficiency, according to the standards determined by the department, to the consultant pharmacist upon completion of training. Documentation of proficiency shall be maintained in the employee's personnel file and in the policy and procedure manual.

(b) The public health clinic worker shall be supervised with documentation by one of the licensed health care professionals specified in subdivision (1) of section 71-1,147.53 for the first month that dispensing of authorized refills of oral contraceptives occurs. The public health clinic for which a public health clinic worker is working shall be liable for acts or omissions on the part of the public health clinic worker.

(c) Following initial training and proficiency demonstration, the public health clinic worker shall demonstrate proficiency to the consultant pharmacist at least annually or as requested by the consultant pharmacist.

(d) The public health clinic worker shall attend a two-hour inservice program regarding oral contraceptives taught by a pharmacist at least once a year, and more often as necessary, with documentation of attendance maintained in the employee's personnel file and in the policy and procedure manual.

(2) Following initial training and proficiency demonstration, the dialysis drug or device distributor worker shall demonstrate proficiency to the consultant pharmacist upon completion of the training. Documentation of proficiency shall be maintained in the worker's personnel file and in the policy and procedure manual. Training and proficiency demonstration shall be conducted annually.

Sec. 80. Section 71-1,147.57, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.57. Each person licensed to practice medicine and surgery or as a physician assistant and each person certified as a nurse practitioner or nurse midwife who works in a public health clinic operating with a drug dispensing permit shall have two hours of training provided by a licensed, actively practicing pharmacist in the following:

- (1) Procedures for dispensing initial prescriptions and authorized refills of oral contraceptives;
- (2) Procedures for dispensing approved drugs and devices;
- (3) Federal and state laws regarding drug dispensing;
- (4) Proper labeling of oral contraceptives and approved drugs and devices;

(5) Proper record keeping of initial and refilled prescriptions;  
 (6) Use of Volumes I and II of the United States Pharmacopeia-Drug Pharmacopeia-Dispensing Information;

- (7) Proper pharmacist referral;
- (8) Procedures for reaching the on-call pharmacist;
- (9) Storage and security of approved formulary drugs and devices;

and

(10) Patient information.

Sec. 81. Section 71-1,147.58, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.58. Each person licensed as a registered nurse or licensed practical nurse who is not certified as a nurse practitioner or nurse midwife and who works in a public health clinic operating with a drug dispensing permit shall have eight hours of training provided by a licensed, actively practicing pharmacist in the following:

- (1) Procedures for dispensing initial prescriptions and authorized refills of oral contraceptives;
- (2) Procedures for dispensing approved drugs and devices;
- (3) Federal and state laws regarding drug dispensing;
- (4) Proper labeling of oral contraceptives and approved drugs and devices;

(5) Proper record keeping of initial and refilled prescriptions;  
 (6) The actions, drug interactions, and effects of oral contraceptives and approved drugs and devices;

(7) Use of Volumes I and II of the United States Pharmacopeia-Drug Pharmacopeia-Dispensing Information;

- (8) Proper pharmacist referral;
- (9) Procedures for reaching the on-call pharmacist;
- (10) Storage and security of approved formulary drugs and devices;

and

(11) Patient information.

Sec. 82. Section 71-1,147.59, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.59. (1) The Public Health Clinic Formulary Advisory Committee is hereby created. The committee shall consist of eight members as follows:

~~(1)~~ (a) Two members designated by the board;  
~~(2)~~ (b) Two members who are employees of the department with knowledge of and interest in reproductive health and sexually transmitted diseases;

~~(3)~~ (c) Two members who are licensed to practice pharmacy in this state and who are selected by the Director of Regulation and Licensure. The Nebraska Pharmacists Association may submit to the director a list of five persons of recognized ability in the profession. If such a list is submitted, the director shall consider the names on such list and may appoint one or more of the persons so named. The director may appoint any qualified person even if such person is not named on the list submitted by the association; and

~~(4)~~ (d) Two members who are employees of public health clinics which are or will be operating with drug dispensing permits and who are selected by the director from names recommended by such public health clinics.

(2) Initial designations and recommendations shall be made and submitted to the director within thirty days after July 16, 1994. Subsequent designations and recommendations shall be submitted in July prior to the third

quarter meeting of the committee.

(3) Members shall serve for terms of two years each beginning with the third quarter meeting, except that one-half of the initial members appointed to the committee, as designated by the director, shall serve for terms of three years each. Members may serve for consecutive terms as approved by the director. The director may remove a member of the committee for inefficiency, neglect of duty, or misconduct in office in the manner provided in section 71-1,147.43.

Sec. 83. Section 71-1,147.60, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.60. (1) The Public Health Clinic Formulary Advisory Committee shall be an advisory committee to the board and shall be considered a public body for purposes of sections 84-1408 to 84-1414.

(2) The committee may meet quarterly and shall meet annually to consider the inclusion or removal of drugs and devices from the formulary to be used by public health clinics operating with a drug dispensing permit and to consider modifications to the patient instruction requirements. The committee shall recommend to the board the drugs and devices to be included, patient instruction requirements which shall include directions on the use of drugs and devices, potential side effects and drug interactions, criteria for contacting the on-call pharmacist, and accompanying written patient information, taking into consideration the requirements of section 71-1,147.48.

(3) The committee shall also recommend to the board standards for the training of public health care workers.

Sec. 84. Section 71-1,147.61, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.61. To protect the health, safety, and welfare of the public, to ensure to the greatest extent possible the accurate, efficient, and safe practice of pharmacy, to ensure that prescription drugs and devices conform to the orders authorizing their dispensing or administration, and to implement sections 71-1,147.39 to 71-1,147.61, the department, upon the recommendation of the board, shall adopt and promulgate rules and regulations:

- (1) For the enforcement of sections 71-1,147.39 to 71-1,147.61;
- (2) For the initial and annual inspections of public health clinics and the calculation of the inspection and investigation fees;
- (3) For the documentation of the services of the consultant pharmacist;
- (4) For the documentation of the availability of an actively practicing pharmacist in a public health clinic during all hours of dispensing;
- (5) For the training and proficiency demonstration of public health clinic workers and dialysis drug or device distributor workers; and
- (6) For the notification of the approved formulary drugs and devices for dispensing in public health clinics.

Sec. 85. Section 71-519, Reissue Revised Statutes of Nebraska, is amended to read:

71-519. All infants born in the State of Nebraska shall be screened for phenylketonuria, primary hypothyroidism, biotinidase deficiency, and such other metabolic diseases as the Department of Health and Human Services Regulation and Licensure may from time to time specify. Confirmatory tests shall be performed in the event that a presumptive positive result on the screening test is obtained.

The attending physician shall collect or cause to be collected the prescribed specimen or specimens and shall submit or cause to be submitted the same to a laboratory for the performance of such tests within the period prescribed by the department. In the event a birth is not attended by a physician, the person registering the birth shall cause such tests to be performed within the period prescribed by the department. The laboratory shall within the period prescribed by the department perform such tests as are prescribed by the department on the specimen or specimens submitted and report the results of these tests to the physician, if any, and the hospital. The laboratory shall report to the department the results of such tests that are presumptive positive or confirmed positive within the period and in the manner prescribed by the department.

The hospital shall record the collection of specimens for tests for metabolic diseases and the reporting of the results of such tests or the absence of such report. The hospital shall report the results of such tests to the department within the period and in the manner prescribed by the department.

Dietary and therapeutic management of the infant with phenylketonuria, primary hypothyroidism, biotinidase deficiency, or such other

metabolic diseases as the department may from time to time specify shall be the responsibility of the child's parent, guardian, or custodian with the aid of a physician selected by such person.

Sec. 86. Section 71-520, Revised Statutes Supplement, 1997, is amended to read:

71-520. The Department of Health and Human Services shall establish a program to provide food supplements and treatment services to individuals suffering from the metabolic diseases set forth in section 71-519. To defray or help defray the costs of any program which may be established by the department under this section, the department may:

(1) Prescribe and assess a scale of fees for the food supplements. The maximum prescribed fee for food supplements shall be no more than the actual cost of providing such supplements. No fees may be charged for formula, and up to two thousand dollars of pharmaceutically manufactured food supplements shall be available to an individual without fees each year; and

(2) Assess a fee of three dollars for each infant screened pursuant to section 71-519. The laboratory performing the tests pursuant to section 71-519 shall collect the three-dollar fee for infant screening and shall submit the amounts collected to the ~~department~~ Department of Health and Human Services Finance and Support on a monthly basis.

Any fees collected shall be deposited in the state treasury and shall be credited to the Department of Health and Human Services Finance and Support Cash Fund.

Sec. 87. Section 71-522, Reissue Revised Statutes of Nebraska, is amended to read:

71-522. The Department of Health and Human Services ~~Regulation and Licensure~~ shall establish and maintain a central data registry for the collection and storage of reported data concerning metabolic diseases. The ~~department~~ Department of Health and Human Services shall have full access to reported data and shall use reported data to ensure that all infants born in the State of Nebraska are tested for diseases set forth in section 71-519 or by rule and regulation. Reported data in anonymous or statistical form may be made available by the ~~department~~ Department of Health and Human Services Regulation and Licensure for purposes of research.

Sec. 88. Section 71-523, Revised Statutes Supplement, 1997, is amended to read:

71-523. (1) The Department of Health and Human Services shall provide educational and resource services regarding metabolic diseases to persons affected by sections 71-519 to 71-524 and to the public generally.

(2) The Department of Health and Human Services, the Department of Health and Human Services Finance and Support, and the Department of Health and Human Services Regulation and Licensure may apply for, receive, and administer assessed fees and federal or other funds which are available for the purpose of implementing sections 71-519 to 71-524 and may contract for or provide services as may be necessary to implement such sections.

(3) The Department of Health and Human Services Regulation and Licensure with the advice of the Department of Health and Human Services shall adopt and promulgate rules and regulations to implement sections 71-519 to 71-524.

Sec. 89. Section 71-604.05, Revised Statutes Supplement, 1997, is amended to read:

71-604.05. (1) The Department of Health and Human Services Finance and Support shall not file (a) a certificate of live birth, (b) a certificate of delayed birth registration for a registrant under twenty-five years of age when an application for such certificate is filed, (c) a certificate of live birth filed after adoption of a Nebraska-born person or a person born outside of the jurisdiction of the United States, or (d) a certificate of live birth issued pursuant to section 71-628 unless the social security number or numbers issued to the parents are furnished by the person seeking to register the birth. No such certificate may be amended to show paternity unless the social security number of the father is furnished by the person requesting the amendment. The social security number shall not be required if no social security number has been issued to the parent or if the social security number is unknown.

(2) Social security numbers (a) shall be recorded on the birth certificate but shall not be considered part of the birth certificate and (b) shall only be used for the purpose of enforcement of child support orders in Nebraska as permitted by Title IV-D of the federal Social Security Act, as amended, or as permitted by section 7(a) of the federal Privacy Act of 1974, as amended. The Department of Health and Human Services Finance and Support shall make social security numbers available to the Department of Health and Human Services for purposes permitted under Title IV-D of the federal Social



Security Act, as amended.

(3) The Department of Health and Human Services Finance and Support, or on receipt of a written or electronic request by the Department of Health and Human Services, may release data to the Social Security Administration which is necessary to obtain a social security number and which is contained on the birth certificate of any individual who has applied for or is receiving medicaid or food stamp benefits. The Department of Health and Human Services Finance and Support shall make such data available only for the purpose of obtaining a social security number for the individual.

(4) The Department of Health and Human Services Finance and Support shall provide to the Social Security Administration each parent's name and social security number collected in the birth certification process as required by the federal Taxpayer Relief Act of 1997.

Sec. 90. Section 71-1555, Reissue Revised Statutes of Nebraska, is amended to read:

71-1555. Sections 71-1555 to 71-1568 and section 102 of this act shall be known and may be cited as the Nebraska Uniform Standards for Modular Housing Units Act.

Sec. 91. Section 71-1557, Reissue Revised Statutes of Nebraska, is amended to read:

71-1557. As used in the Nebraska Uniform Standards for Modular Housing Units Act, unless the context otherwise requires:

(1) Modular housing unit ~~shall mean means~~ any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities. Modular housing units shall be taxed as real estate;

(2) Living unit ~~shall mean means~~ any portion of a modular housing unit which contains living facilities including provisions for sleeping, eating, cooking, and sanitation for no more than one family;

(3) Seal ~~shall mean means~~ a device or insignia issued by the Department of Health and Human Services Regulation and Licensure prior to the operative date of this section, or by the Public Service Commission on or after the operative date of this section, to be displayed on the exterior of the modular housing unit to evidence compliance with ~~departmental state~~ standards;

(4) Dealer ~~shall mean means~~ any person other than a manufacturer who sells, offers to sell, distributes, or leases modular housing units primarily to persons who in good faith purchase or lease a modular housing unit for purposes other than resale;

(5) Manufacturer ~~shall mean means~~ any person who manufactures or produces modular housing units;

(6) Person ~~shall mean means~~ any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing modular housing units; and

(7) ~~Department shall mean the Department of Health and Human Services Regulation and Licensure~~ Commission means the Public Service Commission.

Sec. 92. Section 71-1558, Reissue Revised Statutes of Nebraska, is amended to read:

71-1558. (1) All construction of and all plumbing, heating, and electrical systems installed in modular housing units manufactured more than six months after July 10, 1976, and before the operative date of this section, and sold, offered for sale, or leased in this state shall comply with the standards of the state agency responsible for regulation of modular housing units as such standards existed on the date of manufacture.

(2) All construction of and all plumbing, heating, and electrical systems installed in modular housing units manufactured on or after the operative date of this section, and sold, offered for sale, or leased in this state shall be at least equal to the standards adopted and approved by the department by regulation of the department commission pursuant to its rules and regulations. The standards adopted by the department shall (a) protect the health and safety of persons living in modular housing units, (b) assure reciprocity with other states that have adopted standards which protect the health and safety of persons living in modular housing units the purpose of which is to make uniform the law of those states which adopt them, (c) allow variations from such uniform standards as will reduce unnecessary costs of construction or increase safety, durability, or efficiency, including energy efficiency, of the modular housing unit without jeopardizing such reciprocity, (d) assure changes in those uniform standards which reflect new technology

making possible greater safety, efficiency, including energy efficiency, economy, or durability than earlier standards, and (e) allow for reduced energy and snow live load requirements for those modular housing units destined for out-of-state siting if the receiving jurisdiction has such reduced requirements. The department commission shall adopt as standards relating to electrical systems in modular housing units those applicable standards adopted and amended by the State Electrical Board under section 81-2104.

(2) (3) Whenever practical, the standards shall be stated in terms of required levels of performance so as to facilitate the prompt acceptance of new building materials and methods. If generally recognized standards of performance are not available, the standards of the department shall provide for acceptance of materials and methods whose performance has been found by the department commission on the basis of reliable test and evaluation data presented by the proponent to be substantially equal to those specified.

Sec. 93. Section 71-1559, Reissue Revised Statutes of Nebraska, is amended to read:

71-1559. (1) Every modular housing unit, except those constructed or manufactured by any school district or community college area as a part of a buildings trade or other instructional program offered by such district or area, manufactured more than six months after July 10, 1976, and before the operative date of this section, which is sold, offered for sale, or leased in this state shall comply with the seal requirements of the state agency responsible for regulation of modular housing units as such requirements existed on the date of manufacture.

(2) Every modular housing unit, except those constructed or manufactured by any school district or community college area as part of a buildings trade or other instructional program offered by such district or area, manufactured on or after the operative date of this section, which is sold, offered for sale, or leased in this state shall bear a seal issued by the department commission certifying that the construction and the structural, plumbing, heating, and electrical systems of such modular housing unit have been installed in compliance with the its standards adopted by the department applicable at the time of manufacture. Each manufacturer of such modular housing units, except those constructed or manufactured by such school district or community college area, shall submit its plans to the department commission for the purposes of inspection. The department commission shall establish a compliance assurance program consisting of an application form and a compliance assurance manual. Such manual shall identify and list all procedures which the manufacturer and the inspection agency propose to implement to assure that the finished modular housing unit conforms to the approved building system and the applicable codes adopted by the department commission. The compliance assurance program requirements shall apply to all inspection agencies, whether department commission or authorized third party, and shall define duties and responsibilities in the process of inspecting, monitoring, and issuing seals for modular housing units. The department commission shall issue the seal only after ascertaining that the manufacturer is in full compliance with the compliance assurance program through inspections at the plant by the department commission or authorized third-party inspection agency. Such inspections shall be of an unannounced frequency such that the required level of code compliance performance is implemented and maintained throughout all areas of plant and site operations that affect regulatory aspects of the construction. Each seal issued by the department state shall remain the property of the department commission and may be revoked by the department commission in the event of violation of the conditions of issuance. A fee of not less than eighty and not more than four hundred dollars per living unit as determined by departmental regulation rules and regulations of the commission shall be charged for each seal issued by the department commission. Inspection fees shall be paid for all departmental inspections by the commission of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual departmental travel and inspection expenses only and shall be paid prior to any issuance of seals. All fees collected under the Nebraska Uniform Standards for Modular Housing Units Act shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund Modular Housing Units Cash Fund which is hereby created. Money credited to the fund pursuant to this section shall be used by the department commission for the purpose of administering the act. The State Treasurer shall transfer to the Modular Housing Units Cash Fund on or after the operative date of this section any money credited to the Department of Health and Human Services Regulation and Licensure Cash Fund pursuant to the Nebraska Uniform Standards for Modular Housing Units Act. Any

money in the Modular Housing Units Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 94. Section 71-1560, Reissue Revised Statutes of Nebraska, is amended to read:

71-1560. Except as provided in section 71-1561, no dealer shall sell, offer for sale, or lease in this state any new modular housing unit manufactured (1) more than six months after July 10, 1976, and before the operative date of this section, unless such modular housing unit meets or exceeds the standards established by the department state agency responsible for regulation of modular housing units as such standards existed on the date of manufacture with respect to construction thereof and the installation of plumbing, heating, and electrical systems or (2) on or after the operative date of this section, unless such modular housing unit meets or exceeds the standards established by the commission with respect to construction thereof and the installation of plumbing, heating, and electrical systems.

Sec. 95. Section 71-1561, Reissue Revised Statutes of Nebraska, is amended to read:

71-1561. If any other state has plumbing, heating, electrical, or construction codes for modular housing units at least equal to those established by the department commission pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, the department commission, upon determining that such standards are being enforced by such other state, shall place such other state on a reciprocity list which shall be available to any interested person. Any modular housing unit which bears the seal of any state which has been placed on the reciprocity list shall not be required to bear the seal issued by this state. A modular housing unit manufactured more than six months after July 10, 1976, which does not bear the seal issued by the department this state or by a state which has been placed on the reciprocity list shall not be manufactured, offered for sale, sold, or leased by a manufacturer, dealer, or any other person anywhere within this state nor transported or delivered into any other state or jurisdiction.

The department commission may enter into agreements with the federal government, any federal agency, or any other state, state agency, interstate agency, compact, or local jurisdiction to perform inspections pursuant to the federal government's or the agency's, state's, compact's, or jurisdiction's standards relating to modular housing units.

Sec. 96. Section 71-1562, Reissue Revised Statutes of Nebraska, is amended to read:

71-1562. No agency or political subdivision of the state or a municipality shall require compliance with local codes or standards for the construction of or the installation of structural, plumbing, heating, or electrical systems in a modular housing unit which are different from those established by the department commission pursuant to the Nebraska Uniform Standards for Modular Housing Units Act. An agency or political subdivision of this state or a municipality may prescribe reasonable and necessary requirements of the site development for modular housing units in accordance with local standards. Site development is defined for the purposes of such act as those local development requirements including, but not limited to, foundations, site utility requirements and their connections to the modular housing units, zoning and subdivision regulations, and fire control provisions.

Sec. 97. Section 71-1563, Reissue Revised Statutes of Nebraska, is amended to read:

71-1563. (1) Any person who sells, offers for sale, or leases in this state any modular housing unit manufactured more than six months after July 10, 1976, which does not bear the seal required by the provisions of the Nebraska Uniform Standards for Modular Housing Units Act shall be guilty of a Class IV misdemeanor.

(2) The department commission may, in accordance with the laws governing injunctions and other processes, maintain an action in the name of the state against any person who sells, offers for sale, or leases in this state any modular housing unit manufactured more than six months after July 10, 1976, which does not bear the seal required by the provisions of such act.

Sec. 98. Section 71-1564, Revised Statutes Supplement, 1997, is amended to read:

71-1564. The department commission is hereby charged with the administration of the provisions of the Nebraska Uniform Standards for Modular Housing Units Act. The department commission may adopt, amend, alter, or repeal general rules and regulations of procedure for carrying out and administering the provisions of such act in regard to (1) the issuance of seals, (2) the submission of plans and specifications of modular housing

units, (3) the obtaining of statistical data respecting the manufacture and sale of modular housing units, and (4) the prescribing of means, methods, and practices to make effective such provisions. In adopting such rules and regulations, the department commission may require that plans and specifications of modular housing units submitted to the department commission be prepared and submitted only by a Nebraska architect or professional engineer.

A person intending to manufacture, sell, offer for sale, or lease a modular housing unit in the State of Nebraska shall submit plans, specifications, and a compliance assurance program in accordance with the act and shall be charged for departmental engineering services of the commission provided for performing the review of such initial submittal at a rate of not less than fifteen dollars per hour and not more than thirty dollars per hour as determined by departmental regulation rules and regulations of the commission based upon sixty hours of review time.

Sec. 99. Section 71-1565, Reissue Revised Statutes of Nebraska, is amended to read:

71-1565. The Director of Regulation and Licensure commission shall appoint seven citizens of the state to a modular housing advisory board. Board membership shall include one person from each of the fields of industrial management, architecture, professional engineering, organized labor, and municipal building inspection, one manufacturer, and one dealer. No business entity shall be represented by more than one member on the advisory board at any time.

All appointments shall be for terms of four years. All such members shall serve until their successors are appointed and qualified. No member shall serve more than two successive four-year terms. All members serving on April 10, 1992, shall complete their terms. Vacancies in the membership of the advisory board for any cause shall be filled by appointment by the director commission for the unexpired term. Members of the board who were appointed prior to the operative date of this section shall continue to serve until their successors are appointed by the commission.

Members shall receive no compensation but shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

The department commission shall not propose, adopt, or approve any rule, regulation, or standard under the Nebraska Uniform Standards for Modular Housing Units Act, except standards relating to electrical systems, until it has first been approved by the advisory board.

Sec. 100. Section 71-1566, Reissue Revised Statutes of Nebraska, is amended to read:

71-1566. The department commission through its authorized representatives may enter any place or establishment where modular housing units are manufactured, sold, offered for sale, or leased for the purpose of inspecting such modular housing units or parts thereof in order to ascertain whether the requirements of the Nebraska Uniform Standards for Modular Housing Units Act and the rules, regulations, and standards adopted by the department commission have been complied with. If the department commission appoints qualified nongovernmental inspectors or inspection agencies as its authorized representatives to carry out such inspections, the department commission shall at all times exercise supervisory control over such inspectors or agencies to insure effective and uniform enforcement of departmental its standards. No person may interfere with, obstruct, or hinder an authorized representative of the department commission in the performance of such an inspection.

Sec. 101. Section 71-1567, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) The issuance of seals may be suspended as to any manufacturer who is convicted of violating section 71-1563 or as to any manufacturer who violates any other provision of the Nebraska Uniform Standards for Modular Housing Units Act or any rule, regulation, or standard adopted pursuant thereto, and issuance of the seals shall not be resumed until such manufacturer submits sufficient proof that the conditions which caused the violation have been remedied. Any such manufacturer may request a hearing

before the department commission on the issue of such suspension. Procedures for notice and opportunity for a hearing before the department commission shall be pursuant to the Administrative Procedure Act. The suspension may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 102. All rules, regulations, and orders of the Department of Health and Human Services Regulation and Licensure or its predecessor agency adopted prior to the operative date of this section, in connection with the powers, duties, and functions transferred to the Public Service Commission under the Nebraska Uniform Standards for Modular Housing Units Act, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to the operative date of this section, or which could have been commenced prior to that date, by or against such department or agency, or the director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from such department or agency to the commission.

On and after the operative date of this section, unless otherwise specified, whenever any provision of law refers to such department or agency in connection with duties and functions transferred to the commission, the law shall be construed as referring to the commission.

Any costs incurred by the department and associated with the transfer of powers, duties, and functions to the commission under the act shall be borne by the commission.

Sec. 103. Section 71-1913.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1913.01. (1) Each program shall require the parent or guardian of each child enrolled in such program to present within thirty days after enrollment and periodically thereafter (a) proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and haemophilus influenzae type B and such other diseases as the Department of Health and Human Services Regulation and Licensure may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, an advanced registered nurse practitioner, or a physician assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that the parent or guardian does not wish to have such child so immunized and the reasons therefor. The program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement pursuant to subdivision (b) or (c) of this subsection.

(2) Each program shall keep the written record of immunization, the certification, or the written statement of the parent or guardian. Such record, certification, or statement shall be kept by the program as part of the child's file, shall be available to the Department of Health and Human Services, and shall be filed with the Department of Health and Human Services Regulation and Licensure for review and inspection. Each program shall report to the Department of Health and Human Services Regulation and Licensure by November 1 of each year the status of immunization for children enrolled as of September 30 of that year, and children who have reached kindergarten age and who are enrolled in public or private school need not be included in the report.

Sec. 104. Section 71-1913.02, Revised Statutes Supplement, 1997, is amended to read:

71-1913.02. (1) The Department of Health and Human Services Regulation and Licensure shall perform annually a random audit of the reports submitted under section 71-1913.01 to check for compliance with such section on an annual basis and such other audits and inspections as are necessary to prevent the introduction or spread of disease. Audit results shall be reported to the Department of Health and Human Services.

(2) If the Department of Health and Human Services Regulation and Licensure discovers noncompliance with section 71-1913.01, the Department of Health and Human Services Regulation and Licensure shall allow a noncomplying program thirty days to correct deficiencies. If deficiencies are not corrected, the Department of Health and Human Services Regulation and Licensure shall notify the Department of Health and Human Services in writing within five working days. The Department of Health and Human Services shall notify the Department of Health and Human Services Regulation and Licensure of

any action taken as a result of such report or any failure to correct deficiencies-

(3) The Department of Health and Human Services Regulation and Licensure shall develop and provide educational and other materials to programs and the public as may be necessary to implement section 71-1913.01.

Sec. 105. Section 71-1913.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-1913.03. The Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules and regulations relating to the required levels of protection, using as a guide the recommendations of the American Academy of Pediatrics and the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention of the United States Department of Health and Human Services, Public Health Service, and the methods, manner, and frequency of reporting of each child's immunization status. The Department of Health and Human Services Regulation and Licensure shall furnish each program with copies of such rules and regulations and any other material which will assist in carrying out section 71-1913.01.

Sec. 106. Section 71-2017.01, Revised Statutes Supplement, 1997, is amended to read:

71-2017.01. For purposes of sections 71-2017 to 71-2029, unless the context otherwise requires:

(1) Care means the exercise of concern or responsibility for the comfort and welfare of the residents of a facility by the owner, occupant, administrator, or operator of the facility in addition to the provision of food and shelter to the residents and includes, but is not limited to, the maintenance of a minimum amount of supervision of the activities of the residents of the facility as well as the provision of a minimum amount of assistance to the residents and also includes personal care, hereby defined as the provision of health-related services for individuals who are in need of a protective environment but who are otherwise able to manage the normal activities of daily living;

(2) Hospital means (a) any institution, facility, place, or building which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or medical care over a period exceeding twenty-four consecutive hours of two or more nonrelated individuals suffering from illness, condition, injury, or deformity, (b) any institution, facility, place, or building which is devoted primarily to the rendering over a period exceeding twenty-four consecutive hours of obstetrical or other medical care for two or more nonrelated individuals, or (c) any institution, facility, place, or building in which any accommodation is primarily maintained, furnished, or offered for the medical and nursing care over a period exceeding twenty-four consecutive hours of two or more nonrelated aged or infirm persons requiring or receiving convalescent care. Hospital includes, but is not limited to, facilities or parts of facilities which provide space for general acute hospitals, short-term hospitals, rehabilitation hospitals, long-term care hospitals, limited-service rural hospitals, psychiatric or mental hospitals, and emergency hospitals or treatment centers. Hospital does not include the residence, office, or clinic of a private physician or of an association of physicians, any other health practitioner, or any practitioner or association of practitioners licensed pursuant to Chapter 71, in which residence, office, or clinic patients are not treated or given care for a period in excess of twenty-four consecutive hours;

(3) General acute hospital means a hospital having a duly constituted governing body which exercises administrative and professional responsibility and an organized medical staff which provides inpatient care, including medical, nursing, surgical, anesthesia, laboratory, diagnostic radiology, pharmacy, and dietary services. Such services may be provided through a contract or agreement;

(4) Short-term hospital means a hospital that (a) is primarily devoted to the diagnosis and treatment of individuals requiring short-term treatment or treatment of diagnosis consistent with the medical support available and (b) has written coordination agreements with a general acute hospital for transfers and quality assurance programs. Short-term hospital does not mean a facility for the treatment of mental diseases, a rehabilitation hospital, or a substance abuse treatment center;

(5) Rehabilitation hospital means a hospital which is operated for the primary purpose of assisting in the rehabilitation of disabled persons through an integrated program of medical and other services provided under professional supervision;

(6) Long-term care hospital means any hospital, any distinct part of any hospital, or any portion of a hospital which is primarily devoted to providing the care and services as set forth in subdivisions (10), (11), and

(20) of this section;

(7) Psychiatric or mental hospital means a hospital which is primarily engaged in providing to inpatients, by or under the supervision of a physician, psychiatric services for the diagnosis and treatment of mentally ill persons;

(8) Emergency hospital or treatment center means a hospital primarily devoted to the diagnosis and treatment of individuals requiring emergency outpatient services and emergency care and with written coordination agreements with a general acute hospital for transfers and quality assurance programs;

(9) Health clinic means an institution, a facility, a place, a building, or any distinct part of an institution, a facility, a place, or a building, not licensed as a hospital, in which advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis and for a period not exceeding twenty-four consecutive hours primarily or exclusively to persons not residing or confined in such institution, facility, place, building, or distinct part of such institution, facility, place, or building. Health clinic includes, but is not limited to, a public health clinic or an ambulatory surgical center. Satellite clinics operated on an intermittent basis at a specific location or site and providing services within a portion of the total geographic area served by a licensed health clinic need not be separately licensed but may be operated as a part of a parent clinic and share administration and services. Health clinic does not include the residence, office, clinic, or any distinct part of the residence, office, or clinic of a physician or association of physicians in which counseling, diagnosis, treatment, care, or services relating to the preservation or maintenance of health are provided by a physician or physicians or other health care professionals under the supervision of a physician or physicians, any other health practitioner or association of practitioners, or any practitioner licensed pursuant to Chapter 71 unless such residence, office, clinic, or distinct part of the residence, office, or clinic is an ambulatory surgical center or unless ten or more abortions, as defined in subdivision (1) of section 28-326, are performed during any one calendar week in such residence, office, clinic, or distinct part of the residence, office, or clinic. Health clinic does not include an institution, a facility, a place, a building, or any distinct part of an institution, a facility, a place, or a building which provides only routine health screenings, health education, or immunizations. For purposes of this subdivision, routine health screenings means the collection of health data through the administration of a screening tool designed for a specific health problem, evaluation and comparison of results to referral criteria, and referral to appropriate sources for care, if indicated, and screening tool means a simple interview or testing procedure to collect basic information on health status;

(10) Skilled nursing facility means any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients skilled nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 71-2017.06, a skilled nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.06, a skilled nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the skilled nursing facility has an average daily occupancy of sixty or fewer residents;

(11) Intermediate care facility means any institution, facility, place, or building in which accommodation and board for a period exceeding twenty-four consecutive hours and also nursing care and related medical services are provided for two or more nonrelated individuals who are ill, injured, or disabled but not in need of hospital or skilled nursing facility care, but who by reason of illness, disease, injury, deformity, disability, convalescence, or physical or mental infirmity require such nursing care and related medical services. An intermediate care facility shall provide at least one licensed registered nurse or licensed practical nurse on duty on the day shift seven days per week and at least one licensed registered nurse, licensed practical nurse, or care staff member on duty on the other two shifts seven days per week. An intermediate care facility shall provide a Director of Nursing Services, who shall be a licensed registered nurse, to administer,

supervise, delegate, and evaluate nursing and nursing support services of the facility. The Director of Nursing Services shall serve on the day shift five days per week, eight hours per day, except when it is necessary to vary working hours to provide supervision on other shifts, and may satisfy the day-shift nurse requirement for five of seven days per week if he or she can meet both the nursing care needs of the patients or residents for that shift and his or her administrative and supervisory responsibilities as Director of Nursing Services;

(12) Intermediate care facility for the mentally retarded means any institution, facility, place, or building, not licensed as a hospital, that provides accommodation, board, training or habilitation services, advice, counseling, diagnosis, treatment, and care, including nursing care and related medical services, for a period exceeding twenty-four consecutive hours for fifteen or more nonrelated individuals who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities. The requirement of fifteen or more nonrelated individuals shall not apply to any intermediate care facility for the mentally retarded which has a valid license as of January 1, 1988;

(13) Assisted-living facility means any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours, through ownership, contract, or preferred provider arrangements, accommodation, board, and an array of services for assistance with or provision of personal care, activities of daily living, health maintenance activities, or other supportive services, as defined in section 71-20,115, for four or more nonrelated individuals who have been determined to need or want these services. Assisted living promotes resident self-direction and participation in decisions which emphasize independence, individuality, privacy, dignity, and residential surroundings. This definition does not include (a) those homes, apartments, or facilities providing casual care at irregular intervals and (b) those homes, apartments, or facilities in which a competent resident provides or contracts for his or her own personal or professional services if no more than twenty-five percent of the residents receive such services. A competent resident is someone who has the capability and capacity to make an informed decision;

(14) Mental health center means any institution, facility, place, or building, not licensed as a hospital, which is used to provide for a period exceeding twenty-four consecutive hours accommodation, board, and advice, counseling, diagnosis, treatment, care, or services primarily or exclusively to persons residing or confined in the institution, facility, place, or building who are afflicted with a mental disease, disorder, or disability;

(15) Center for the developmentally disabled means any residential institution, facility, place, or building, not licensed as a hospital, which is used to provide accommodation, board, and training, advice, counseling, diagnosis, treatment, care, including medical care when appropriate, or services primarily or exclusively to four or more persons residing in the institution, facility, place, or building who have developmental disabilities;

(16) Substance abuse treatment center means any institution, facility, place, or building, not licensed as a hospital, including any private dwelling, which is used to provide residential care, treatment, services, maintenance, accommodation, or board in a group setting primarily or exclusively for individuals who are substance abusers. Substance abuse treatment center includes those settings which provide programs and services on an outpatient basis primarily or exclusively to individuals who are substance abusers but not services that can be rendered only by a physician or within the confines of a hospital. Specific types or categories of substance abuse treatment centers may be further defined by appropriate rule and regulation of the department not inconsistent with this definition. For purposes of this subdivision, substance abuse means the abuse of substances which have significant mood-changing or perception-changing capacities, which are likely to be physiologically or psychologically addictive, and the continued use of which may result in negative social consequences, and abuse means the use of substances in ways that have or are likely to have significant adverse social consequences;

(17) Home health agency means a public agency, private organization, or subdivision of such an agency or organization which is primarily engaged in providing skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to patients in a place of temporary or permanent residence used as the patient's home under a plan of care as prescribed by the attending physician and which meets the rules, regulations, and standards as established by the department. Nothing in this subdivision shall be construed to require (a) a physician's plan of care, (b) a summary report to the physician, (c) a



progress report, or (d) a discharge summary when only personal care or assistance with the activities of daily living, as such terms are defined in section 71-6602, are provided. Parent home health agency means the primary home health agency which establishes, maintains, and assures administrative and supervisory control of branch offices and subunits. Branch office means a home health agency which is at a location or site providing services within a portion of the total geographic area served by the parent agency and is in sufficient proximity to share administration, supervision, and services with its parent agency in a manner that renders it unnecessary for the branch independently to meet licensure requirements. A branch office shall be part of its parent home health agency and share administration and services. Subunit means a home health agency which serves patients in a geographic area different from that of the parent agency and which, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services on a daily basis and shall independently meet the licensing requirements for home health agencies. Home health agency does not include private duty nursing registries as long as the private duty nursing registrant or the registry is the direct payee from the patient. Home health agency does not apply to the practice of home health care by other licensed medical persons as authorized by the practice of their particular specialty nor to the individuals providing homemaker or chore services within the home;

(18) Developmental disability means a severe, chronic disability of a person which (a) is attributable to a mental or physical impairment or combination of mental and physical impairment, (b) is manifested before the person attains the age of twenty-two, (c) is likely to continue indefinitely, (d) results in substantial functional limitations in three or more of the following areas of major life activity: Self-care; receptive and expressive language; learning; mobility; self-direction; capacity for independent living; and economic self-sufficiency, and (e) reflects the person's need for a combination and sequence of special interdisciplinary or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated;

(19) Qualified mental retardation professional means any person who meets the requirements of 42 C.F.R. 483.430(a);

(20) Nursing facility means any institution, facility, place, or building or a distinct part of any institution, facility, place, or building which is primarily devoted to providing to inpatients nursing care and related services for patients who require medical or nursing care or rehabilitation of injured, disabled, or sick persons. Unless a waiver is granted pursuant to section 71-2017.07, a nursing facility shall use the services of (a) a licensed registered nurse for at least eight consecutive hours per day, seven days per week and (b) a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week. Except when waived under section 71-2017.07, a nursing facility shall designate a licensed registered nurse or licensed practical nurse to serve as a charge nurse on each tour of duty. The Director of Nursing Services shall be a licensed registered nurse, and this requirement shall not be waived. The Director of Nursing Services may serve as a charge nurse only when the nursing facility has an average daily occupancy of sixty or fewer residents;

(21) Department means the Department of Health and Human Services Regulation and Licensure;

(22) Ambulatory surgical center means any facility, not licensed as a hospital, (a) the primary purpose of which is to provide surgical services to patients not requiring hospitalization, in which the patient is admitted to and discharged from such facility within the same working day and is not permitted to stay overnight, (b) which meets all state licensure requirements of a health clinic pursuant to subdivision (9) of this section, and (c) which has qualified for a written agreement with the Health Care Finance Administration of the United States Department of Health and Human Services or its successor to participate in medicare as an ambulatory surgical center as defined in 42 C.F.R. 416 et seq. or which receives other third-party reimbursement for facility services. Ambulatory surgical center does not include an office or clinic used solely by a practitioner or group of practitioners in the practice of medicine, dentistry, or podiatry;

(23) Public health clinic means the department, any county, city-county, or multicounty health department, or any private not-for-profit family planning clinic licensed as a health clinic; and

(24) Limited-service rural hospital means a facility which (a) provides inpatient care to ill or injured persons prior to their transportation to a hospital or provides inpatient medical care to persons needing such care for a period of no longer than ninety-six hours, (b) is

located no less than twenty road miles from the nearest hospital, (c) may have up to fifteen acute care inpatient beds and can participate in the swing-bed program, (d) makes available emergency services on a twenty-four-hour basis, and (e) is required to have formal agreements with at least one hospital and other appropriate providers for such services as patient referral and transfer, communications systems, provision of emergency and nonemergency transportation, and backup medical and emergency services.

Sec. 107. It is the intent of the Legislature that quality health care services and human services be provided to all citizens of the state, that basic standards be developed to promote safe and adequate care of individuals in health care services facilities and human services facilities, that categories of facilities be regulated by the state solely for the purpose of protecting the public from unreasonable harm or danger, and that categories of facilities be regulated by the state only when it is demonstrated that regulation is in the best interest of the public.

The purposes of sections 107 to 120 of this act are to establish criteria that provide for the determination of what categories of facilities should be regulated, to develop a quality improvement mechanism which would periodically examine and reexamine the laws, regulations, processes, and results of the facility regulation system, to establish a facility regulation system based on meaningful results, including quality indicators, and to assure that the development, application, and implementation of the facility regulation system is consistent and uniform.

Sec. 108. For purposes of sections 107 to 120 of this act, the definitions found in sections 109 to 113 of this act are used.

Sec. 109. Credentialing means the totality of the licensure processes associated with obtaining a license or changing aspects of an existing license.

Sec. 110. Facility means any organization which provides health care services or human services to members of the general public.

Sec. 111. Health care services means services associated with the diagnosis and treatment of physical, mental, or emotional injury or illness or the prevention, rehabilitation, or continuing care related to health problems.

Sec. 112. Human services means services that assist individuals in the conduct of daily living and includes the provision of food and shelter, a minimum amount of such assistance and personal care, and health-related services for individuals who are in need of a protected environment but who are otherwise able to manage normal activities of daily living.

Sec. 113. Licensure means the permission granted by the state to provide health care services or human services to the public which would otherwise be unlawful without such permission and which is granted to facilities which meet prerequisite qualifications pertinent to public health, safety, and welfare.

Sec. 114. Credentialing of categories of facilities not previously licensed should occur only when:

(1) Credentialing is necessary to prevent harm or endangerment to the public health, safety, or welfare and the potential for the harm or endangerment is easily recognizable and not remote or dependent upon tenuous argument;

(2) Credentialing would not significantly diminish the supply of qualified providers or would not otherwise diminish the public's access to needed services; and

(3) There is no more cost-effective means of protecting the public from harm than credentialing.

Sec. 115. If the Legislature finds that it is necessary for the protection of the public to regulate categories of facilities not previously regulated by state law after reviewing the criteria in section 114 of this act and considering governmental and societal costs and benefits, it is the intent of the Legislature that the least restrictive regulatory provisions consistent with protecting the public health, safety, and welfare be implemented.

Sec. 116. Changes in the credentialing of categories of currently licensed facilities should occur only when:

(1) Credentialing is not needed to ensure the protection of the public health, safety, or welfare or the then current rules and regulations or statutory provisions are not providing adequate protection of the public health, safety, or welfare;

(2) Credentialing has been more detrimental than beneficial to the public health, safety, or welfare by diminishing the supply of qualified providers or the public's access to needed services; or

(3) There are more cost-effective means of protecting the public from harm than credentialing.

Sec. 117. If the Legislature finds that it is necessary for the

protection of the public to make changes in the statutes regulating categories of facilities after reviewing the criteria in section 116 of this act and considering governmental and societal costs and benefits, it is the intent of the Legislature that changes be implemented which are the least restrictive regulatory provisions consistent with protecting the public health, safety, and welfare.

Sec. 118. The Department of Health and Human Services Regulation and Licensure shall periodically examine and reexamine the regulations, processes, and results of the facility regulation system. Changes in the facility regulation system should occur whenever the department finds that:

(1) A program or procedure is not needed to ensure the protection of the public health, safety, or welfare or a program or procedure is not providing adequate protection of the public health, safety, or welfare;

(2) A program or procedure has been more detrimental than beneficial to the fulfillment of the department's regulatory responsibilities as defined by law or has diminished the supply of qualified providers or the public's access to needed services; or

(3) There are alternatives to a program or procedure that would more cost-effectively fulfill the department's duties and responsibilities.

Sec. 119. The Department of Health and Human Services Regulation and Licensure shall review the regulation or proposed regulation of categories of facilities based on the criteria in sections 107 to 120 of this act. On or before November 1 of each year, the department shall provide the Legislature with recommendations for credentialing of categories of facilities not previously regulated and changes in the statutes governing the credentialing of categories of facilities.

Sec. 120. Nothing in sections 107 to 120 of this act is intended to authorize any certificate of need activities for facilities or to authorize the licensure of private practice health care services offices.

Sec. 121. Section 71-2024, Revised Statutes Supplement, 1997, is amended to read:

71-2024. (1) To protect the health, safety, and welfare of the public and to insure to the greatest extent possible the efficient, adequate, and safe practice of health care in any hospital, health care facility, or human services facility or related institution as defined in sections 71-2017 to 71-2029 and sections 107 to 120 of this act consistent with the Nebraska Nursing Home Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, and sections 28-1437 to 28-1439.05, 71-2017 to 71-2029, 71-20,115 to 71-20,119, 71-6501, 71-6601 to 71-6615, and 71-6701 to 71-6717 and sections 107 to 120 of this act, the department shall adopt, promulgate, and enforce rules, regulations, and standards with respect to the different types of hospitals, health care facilities, and human services facilities, and related institutions except nursing homes, to be licensed hereunder as may be designed such act, law, and sections. Such rules, regulations, and standards shall be modified, amended, or rescinded from time to time in the public interest by the department. The department, with the advice of the Nursing Home Advisory Council, shall adopt, promulgate, and enforce rules, regulations, and standards with respect to nursing homes. Such rules, regulations, and standards shall be in compliance with the Nebraska Nursing Home Act. Such rules, regulations, and standards shall be modified, amended, or rescinded from time to time in the public interest by the department with the advice of the Nursing Home Advisory Council.

(2) The department may accept accreditation by a recognized independent accreditation body, which has standards that are at least as stringent as those of the State of Nebraska, as evidence that the hospital, health care facility, or human services facility complies with the rules, regulations, and standards adopted and promulgated pursuant to subsection (1) of this section.

(3) In addition to the authority to inspect in section 71-2022, the department may adopt and promulgate rules and regulations which allow for recognition of alternative methods for assessing the compliance of the hospital, health care facility, or human services facility with the rules, regulations, and standards adopted and promulgated pursuant to subsection (1) of this section.

Sec. 122. Section 71-2048.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-2048.01. Any hospital required to be licensed pursuant to section 71-2018 shall not deny clinical privileges to physicians and surgeons, podiatrists, osteopathic physicians, osteopathic physicians and surgeons, licensed psychologists, or dentists solely by reason of the license held by the practitioner. Each such hospital shall establish reasonable standards and

procedures to be applied when considering and acting upon an application for medical staff membership and privileges. Once an application is determined to be complete by the hospital and is verified in accordance with such standards and procedures, the hospital shall notify the applicant of its initial recommendation regarding membership and privileges within one hundred twenty days.

Sec. 123. Section 71-20,117, Revised Statutes Supplement, 1997, is amended to read:

71-20,117. To protect the health, safety, and welfare of the public, to ensure to the greatest extent possible the efficient and safe services and care to the residents living in an assisted-living facility, and to ensure prescribed drugs are administered in conformance to the orders authorizing their administration, the Department of Health and Human Services Regulation and Licensure shall adopt and promulgate rules, regulations, and standards pursuant to section 71-2024 ~~which will become operative no later than July 1, 1998,~~ for assisted-living facilities regarding licensing procedures, physical plant and sanitation, food service, staffing appropriate to meet the needs of the residents living in the facility, levels of care, quality of care procedures, record keeping, rights of residents, resident service agreements, and services to residents, including services to special populations.

Sec. 124. Section 71-2610.01, Revised Statutes Supplement, 1997, is amended to read:

71-2610.01. (1) The State Board of Health shall have the power and duty to:

(a) Adopt and promulgate rules and regulations for the government of the professions and occupations licensed, certified, registered, or issued permits by the Department of Health and Human Services Regulation and Licensure, including rules and regulations necessary to implement laws enforced by the department. These professions and occupations include, but are not limited to, the Advanced Registered Nurse Practitioner Act, ~~the Emergency Medical Technician-Paramedic Act,~~ the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-102, 71-3702 to 71-3715, 71-4701 to 71-4719, and 71-6053 to 71-6068; and

(b) Determine the policies of the department concerning the professions and occupations listed in this section.

(2) All funds rendered available by law may be used by the board in administering and effecting such purposes.

Sec. 125. Section 71-3406, Revised Statutes Supplement, 1997, is amended to read:

71-3406. The Director of Regulation and Licensure Health and Human Services shall appoint a minimum of eight and a maximum of twelve members to the State Child Death Review Team. The core members shall be (1) a physician employed by the departments, as departments is defined in section 81-3003, who shall be a permanent member and shall serve as the chairperson of the team, (2) a senior staff member with child protective services of the Department of Health and Human Services, (3) a forensic pathologist, (4) a law enforcement representative, and (5) an attorney. The remaining members appointed may be, but shall not be limited to, the following: A county attorney; a Federal Bureau of Investigation agent responsible for investigations on Native American reservations; a social worker; and members of organizations which represent hospitals or physicians. Members shall serve four-year terms with the exception of the chairperson. In the absence of the chairperson, the Director of Regulation and Licensure Health and Human Services may appoint another member of the core team to serve as chairperson. The team shall not be considered a public body for purposes of sections 84-1408 to 84-1414. The team shall meet a minimum of four times a year. Members of the team shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 126. Section 71-3410, Reissue Revised Statutes of Nebraska, is amended to read:

71-3410. Upon request the team shall be immediately provided:

(1) Information and records maintained by a provider of medical, dental, prenatal, and mental health care, including medical reports, autopsy reports, and emergency and paramedic records; and

(2) All information and records maintained by any state, county, or local government agency, including, but not limited to, birth and death certificates, law enforcement investigative data and reports, coroner investigative data and reports, parole and probation information and records,

and information and records of any social services agency that provided services to the child or the child's family.

The Director of ~~Regulation and Licensure~~ Health and Human Services shall have the authority to issue subpoenas to compel production of any of the records and information specified in subdivisions (1) and (2) of this section, except records and information on any child death under active investigation by a law enforcement agency or which is at the time the subject of a criminal prosecution, and shall provide such records and information to the team.

Sec. 127. Section 71-4601, Reissue Revised Statutes of Nebraska, is amended to read:

71-4601. Sections 71-4601 to 71-4620 and section 145 of this act shall be known and may be cited as the Uniform Standard Code for Manufactured Homes and Recreational Vehicles.

Sec. 128. Section 71-4603, Reissue Revised Statutes of Nebraska, is amended to read:

71-4603. For purposes of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, unless the context otherwise requires:

(1) Manufactured home ~~shall mean means~~ means a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure, except that manufactured home ~~shall include~~ includes any structure that meets all of the requirements of this subdivision other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq. Manufactured home ~~shall also include~~ also includes any manufactured home designed and manufactured with more than one separate living unit for the purpose of multifamily living;

(2) Recreational vehicle ~~shall mean means~~ means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which unit either has its own motive power or is mounted on or towed by another vehicle. Recreational vehicle ~~shall include, but not be includes, but is not~~ includes, but is not limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion;

(3) Travel trailer ~~shall mean means~~ means a vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use of such size or weight as not to require special highway movement permits when towed by a motorized vehicle and of gross trailer area less than three hundred twenty square feet;

(4) Camping trailer ~~shall mean means~~ means a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(5) Truck camper ~~shall mean means~~ means a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides and designed to be loaded onto and unloaded from the bed of a pickup truck;

(6) Motor home ~~shall mean means~~ means a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the departmental state standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a potable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply;

(7) Park trailer ~~shall mean means~~ means a vehicular unit which meets the following criteria:

(a) Built on a single chassis mounted on wheels;

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;

(c) Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices; and

(d) Having a gross trailer area not exceeding four hundred square feet when in the setup mode;

(8) Van conversion shall mean means a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle but which does not conform to or otherwise meet the definition of a motor home in this section and which contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the department state standard for recreational vehicles. Van conversion shall does not include any such vehicle that lacks any plumbing, heating, or one-hundred-twenty-nominal-volt electrical system but contains an extension of the low-voltage automotive circuitry;

(9) Seal shall mean means a device or insignia issued by the Department of Health and Human Services Regulation and Licensure prior to the operative date of this section, or by the Public Service Commission on or after the operative date of this section, to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with the departmental state standards. The federal manufactured-home label shall be recognized as a seal;

(10) Dealer shall mean means a person licensed by the state pursuant to Chapter 60, article 14, as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(11) Distributor shall mean means any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(12) Manufacturer shall mean means any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(13) Manufactured-home construction shall mean means all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, activities relating to durability, quality, and safety;

(14) Manufactured-home safety shall mean means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(15) Defect shall mean means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended but does not result in an unreasonable risk of injury or death to occupants;

(16) Imminent safety hazard shall mean means a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(17) Purchaser shall mean means the first person purchasing a manufactured home or recreational vehicle in good faith for purposes other than resale;

(18) Person shall mean means any individual, partnership, limited liability company, company, corporation, or association engaged in manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles;

(19) Department shall mean Commission means the Department of Health and Human Services Regulation and Licensure Public Service Commission;

(20) Serious defect shall mean means a failure to conform to an applicable construction standard that renders the manufactured home or recreational vehicle or any component of the manufactured home or recreational vehicle not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to the occupants;

(21) Noncompliance shall mean means a failure to comply with an applicable construction standard that does not constitute a defect, a serious defect, or an imminent safety hazard;

(22) Failure to conform shall mean means a defect, a serious defect, noncompliance, or an imminent safety hazard related to the code;

(23) Fifth-wheel trailer shall mean means a unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size or weight as not to require a special highway movement permit, of gross trailer area not to exceed four hundred square feet in the setup mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle; and

(24) Gross trailer area shall mean means the total plan area measured on the exterior to the maximum horizontal projections of exterior wall in the setup mode and shall include includes all siding, corner trims,

moldings, storage spaces, expandable room sections regardless of height, and areas enclosed by windows but shall ~~shall~~ does not include roof overhangs. Storage lofts contained within the basic unit shall have ceiling heights less than five feet and shall not constitute additional square footage.

Sec. 129. Section 71-4604, Reissue Revised Statutes of Nebraska, is amended to read:

71-4604. (1) All body and frame design and construction and all plumbing, heating, and electrical systems installed in manufactured homes or recreational vehicles manufactured more than four months after May 27, 1975, and before the operative date of this section, and sold, offered for sale, or leased in this state shall comply with the standards of the state agency responsible for regulation of manufactured homes or recreational vehicles as such standards existed on the date of manufacture.

(2) All body and frame design and construction and all plumbing, heating, and electrical systems installed in manufactured homes or recreational vehicles manufactured on or after the operative date of this section, and sold, offered for sale, or leased in this state shall be at least equal to the standards adopted and approved by the department commission by regulation its rules and regulations. The standards adopted by the department pertaining to manufactured homes shall conform to the Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, and the Manufactured Home Procedural and Enforcement Regulations, 24 C.F.R. 3282, adopted by the United States Department of Housing and Urban Development pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq. Manufactured homes and recreational vehicles destined for sale outside the United States shall be exempt from such regulations if sufficient proof of such delivery is submitted to the Department of Health and Human Services Regulation and Licensure commission for review. The department commission may adopt standards pertaining to manufactured homes designed and manufactured for the purpose of multifamily living, which standards shall protect the health and safety of persons living in multifamily manufactured homes and may include, but need not be limited to, requirements for fire safety, thermal protection, water and fuel shutoff valves, fuel supply inlets, circulation air systems, and electrical systems. Multifamily manufactured homes manufactured in this state solely for purposes of sale in any other state or jurisdiction shall be exempt from the requirements of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. The standards pertaining to recreational vehicles shall ~~(a)~~ (a) protect the health and safety of persons living in recreational vehicles, ~~(b)~~ (b) assure reciprocity with other states that have adopted standards which protect the health and safety of persons living in recreational vehicles the purpose of which is to make uniform the law of those states which adopt them, and ~~(c)~~ (c) allow variations from such uniform standards as will reduce unnecessary costs of construction or increase safety, durability, or efficiency, including energy efficiency, of the recreational vehicle without jeopardizing such reciprocity.

Sec. 130. Section 71-4604.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-4604.01. (1) (a) Every manufactured home or recreational vehicle manufactured more than four months after May 27, 1975, and before the operative date of this section, which is sold, offered for sale, or leased in this state shall comply with the seal requirements of the state agency responsible for regulation of manufactured homes or recreational vehicles as such requirements existed on the date of manufacture.

(b) Every manufactured home or recreational vehicle manufactured on or after the operative date of this section, which is sold, offered for sale, or leased in this state shall bear a seal issued by the department commission certifying that the body and frame design and construction and the plumbing, heating, and electrical systems of such manufactured home or recreational vehicle have been installed in compliance with the standards adopted by the department commission, applicable at the time of manufacture. Manufactured homes destined for sale outside the United States shall be exempt from displaying the seal issued by the department state if sufficient proof of such delivery is submitted to the department commission for review. Recreational vehicles destined for sale or lease outside this state or the United States shall be exempt from displaying the seal issued by the department state if sufficient proof of such delivery is submitted to the department commission for review. The department commission shall issue the recreational-vehicle seal upon an inspection of the plans and specifications for the recreational vehicle or upon an actual inspection of the recreational vehicle during or after construction if the recreational vehicle is in compliance with ~~the departmental state~~ standards. The department commission shall issue the

manufactured-home seal in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq. Each seal issued by the department state shall remain the property of the department commission and may be revoked by the department commission in the event of a violation of the conditions of issuance.

(2) A fee of not less than ten dollars nor more than fifty dollars, as determined by departmental regulation rules and regulations of the commission, shall be charged for each seal issued by the department commission. A seal shall be placed on each living unit within a multifamily manufactured home, and the seal fee assessed for each living unit shall be one-half of the seal fee for a single-family manufactured home. Inspection fees shall be paid for all departmental inspections by the commission of manufacturing plants located outside of the State of Nebraska. Such fees shall consist of a reimbursement by the manufacturer of actual departmental travel, personnel, and inspection expenses only and shall be paid prior to any issuance of seals.

(3) The department commission shall adopt and promulgate rules and regulations governing the submission of plans and specifications of manufactured homes and recreational vehicles. A person who submits recreational-vehicle plans and specifications to the department commission for review and approval shall be charged for departmental engineering services of the commission provided for performing the review of the plans and specifications and related functions at a rate of not less than fifteen dollars per hour nor more than fifty dollars per hour as determined by rule and regulation based on the number of hours of review time as follows:

- (a) New model, one hour;
- (b) Quality control manual, two hours;
- (c) Typical, one-half hour;
- (d) Revisions, three-fourths hour;
- (e) Engineering calculations, three-fourths hour;
- (f) Initial package, fifteen hours; and
- (g) Yearly renewal, two hours plus the three-fourths hour for revisions.

(4) The department commission shall charge each manufacturer a fee of seventy-five dollars for each inspection of any new recreational vehicle manufactured by such manufacturer and not bearing a seal issued by the State of Nebraska or some reciprocal state.

(5) All fees collected pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Manufactured Homes and Recreational Vehicles Cash Fund which is hereby created. Money credited to the fund pursuant to this section shall be used by the department commission for the purpose of administering the code. The State Treasurer shall transfer to the Manufactured Homes and Recreational Vehicles Cash Fund on or after the operative date of this section any money credited to the Department of Health and Human Services Regulation and Licensure Cash Fund pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. Any money in the Manufactured Homes and Recreational Vehicles Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 131. Section 71-4606, Reissue Revised Statutes of Nebraska, is amended to read:

71-4606. If any other state has plumbing, heating, electrical, or body and frame design and construction codes for recreational vehicles at least equal to those established under the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the department commission, upon determining that such standards are being enforced by such other state, shall place such other state on a reciprocity list, which list shall be available to any interested person. Any recreational vehicle which bears the seal of any state which has been placed on the reciprocity list shall not be required to bear the seal issued by this state. A manufactured home manufactured more than four months after May 27, 1975, which does not bear the federal manufactured-home label issued by the department this state or by a state which has been placed on the reciprocity list shall not be permitted to be manufactured, offered for sale, sold, or leased by a manufacturer, dealer, or any other person anywhere within this state nor delivered from this state into any other state or jurisdiction unless destined for sale outside the United States. A recreational vehicle manufactured in this state, which is offered for sale, sold, or leased by a manufacturer, dealer, or other person anywhere outside this state, shall not be required to bear the seal issued by this state. If a recreational vehicle has a certificate of title or other



certification from a state on the reciprocity list, a dealer may sell it unless he or she has actual knowledge that the recreational vehicle does not meet the standards of the state which has issued a certificate of title or other certification for it, so long as it bears the seal issued by the department this state or a state on the reciprocity list. No dealer or distributor shall sell a manufactured home or recreational vehicle if it contains a defect, a serious defect, or an imminent safety hazard.

Sec. 132. Section 71-4608, Reissue Revised Statutes of Nebraska, is amended to read:

71-4608. (1) Any person who is in violation of any provision of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles regarding a used manufactured home or new or used multifamily manufactured home or recreational vehicle or who manufactures unless destined for sale outside the United States, sells, offers for sale, or leases in this state any used manufactured home or new or used multifamily manufactured home or recreational vehicle manufactured more than four months after May 27, 1975, which does not bear the federal manufactured-home label or the recreational-vehicle seal issued by the department this state or by a state which has been placed on the reciprocity list as required by the code shall be guilty of a Class I misdemeanor. Nothing in the Uniform Standard Code for Manufactured Homes and Recreational Vehicles shall be construed to require a seal for any recreational vehicle manufactured in this state which is sold or leased outside this state.

(2) Any person who violates any of the provisions enumerated in this section or rules and regulations adopted and promulgated by the department commission relating to manufactured homes and recreational vehicles shall be liable for a civil penalty not to exceed one thousand dollars for each violation. Each such violation shall constitute a separate violation with respect to each manufactured home or recreational vehicle, except that the maximum penalty shall not exceed one million dollars for any related series of violations occurring within one year from the date of the first violation. No person shall:

(a) Manufacture for sale, lease, sell, offer for sale or lease, or introduce, deliver, or import into this state any manufactured home or recreational vehicle which is manufactured on or after the effective date of any applicable departmental standard of the commission which does not comply with such standard;

(b) Fail or refuse to permit access to or copying of records, fail to make reports or provide information, or fail or refuse to permit entry or inspection as provided in section 71-4610;

(c) Fail to furnish notification to the purchaser of any manufactured home of any defect as required by 42 U.S.C. 5414 or to the purchaser of any recreational vehicle as provided in section 71-4616;

(d) Fail to issue a certification required by 42 U.S.C. 5415 or issue a certification to the effect that a manufactured home conforms to all applicable Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(e) Fail to establish and maintain such records, make such reports, and provide such information as the department commission may reasonably require to enable it to determine whether there is compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq., or the standards adopted by the department commission for recreational-vehicle construction or fail to permit, upon request of a person duly authorized by the department commission, inspection of appropriate books, papers, records, and documents relative to determining whether a manufacturer, distributor, or dealer has acted or is acting in compliance with the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or with the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401 et seq.; or

(f) Issue a certification pursuant to 42 U.S.C. 5403(a) if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.

(3) Subdivision (2)(a) of this section shall not apply to the sale or the offer for sale of any manufactured home or recreational vehicle after the first purchase of it in good faith for purposes other than resale.

(4) Subdivision (2)(a) of this section shall not apply to any person who establishes that he or she did not have reason to know in the exercise of due care that such manufactured home or recreational vehicle was not in conformity with applicable Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, or the standards adopted by the department commission for recreational-vehicle construction or any person who, prior to

such first purchase, holds a certificate by the manufacturer or importer of such manufactured home or recreational vehicle to the effect that such manufactured home conforms to all applicable Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280, or that such recreational vehicle conforms to the standards adopted by the department commission for recreational-vehicle construction unless such person knows that such manufactured home or recreational vehicle does not so conform.

(5) Any person or officer, director, or agent of a corporation who willfully or knowingly violates subsection (2) of this section in any manner which threatens the health or safety of any purchaser shall be guilty of a Class I misdemeanor.

Sec. 133. Section 71-4609, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) The department commission shall appoint an advisory committee of seven members, which committee may review the rules, regulations, and standards of the department commission pertaining to manufactured homes and recreational vehicles and recommend changes. The committee shall represent a cross section of those having an extensive interest in manufactured-home or recreational-vehicle body and frame design and construction or plumbing, heating, or electrical systems. The committee shall serve at the pleasure of the department commission. Members of the committee who were appointed prior to the operative date of this section shall continue to serve until their successors are appointed by the commission.

(3) The department commission shall refuse to issue a seal to any manufacturer or other person for any manufactured home or recreational vehicle found to be not in compliance with ~~departmental~~ its standards governing body and frame design and construction or plumbing, heating, or electrical systems for manufactured homes or recreational vehicles or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer or other person may request a hearing before the department commission on the issue of such refusal. Procedures for notice and opportunity for a hearing before the department commission shall be pursuant to the Administrative Procedure Act. The refusal by the department commission may be appealed, and the appeal shall be in accordance with the act.

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

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

(6) The department commission shall establish a monitoring inspection fee in an amount approved by the United States Secretary of Housing and Urban Development, which fee shall be an amount paid to the department commission by the manufacturer for each manufactured-home seal issued in the state. An additional monitoring inspection fee established by the United States Secretary of Housing and Urban Development shall be paid by the manufacturer to the secretary who shall distribute the fees collected from all manufactured-home manufacturers based on provisions developed and approved by the secretary.

Sec. 134. Section 71-4610, Reissue Revised Statutes of Nebraska, is amended to read:

71-4610. (1) The department commission may conduct inspections and investigations as may be necessary to enforce the standards adopted under the Uniform Standard Code for Manufactured Homes and Recreational Vehicles or to

carry out its duties pursuant to the code. The department commission shall furnish the appropriate state and county officials any information obtained indicating noncompliance with such standards for appropriate action.

(2) For purposes of enforcement of the code and the rules, regulations, and standards adopted and promulgated by the department commission pursuant to the code, persons duly designated by the department commission, upon presenting appropriate credentials to the owner, operator, or agent in charge, may:

(a) Enter, at reasonable times and without advance notice, any factory, warehouse, or other establishment or place in which manufactured homes or recreational vehicles are manufactured, stored, offered for sale, or held for lease or sale; and

(b) Inspect, at reasonable times and within reasonable limits and in a reasonable manner, any such factory, warehouse, or other establishment or place and inspect such books, papers, records, and documents as are set forth in section 71-4611. Each such inspection shall be commenced and completed with reasonable promptness.

Sec. 135. Section 71-4611, Reissue Revised Statutes of Nebraska, is amended to read:

71-4611. For purposes of carrying out the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the department commission may:

(1) Hold such hearings, take such testimony, act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memoranda, contracts, agreements, or other records as the department commission deems advisable. Witnesses summoned pursuant to this section shall be paid the same fees as are paid witnesses in the district courts of the state and mileage as provided in section 81-1176;

(2) Examine and copy any documentary evidence of any person having materials or information relevant to any function of the department commission under the code;

(3) Require, by general or special orders, any person to file, in such form as the department commission may prescribe, reports or answers in writing to specific questions relating to any function of the department commission under the code. Such reports and answers shall be made under oath or otherwise and shall be filed with the department commission within such reasonable period as the department commission may prescribe; and

(4) Make available to the public any information which may indicate the existence of a failure to comply which relates to manufactured-home or recreational-vehicle construction or safety or of the failure of a manufactured home or recreational vehicle to comply with applicable standards. The department commission shall disclose so much of other information obtained under this subdivision to the public as it determines will assist in carrying out the code, but it shall not under the authority of this subdivision make available or disclose to the public any information which contains or relates to a trade secret or any information the disclosure of which would put the person furnishing such information at a substantial competitive disadvantage, unless the department commission determines that it is necessary to carry out the purposes of the code.

Sec. 136. Section 71-4612, Reissue Revised Statutes of Nebraska, is amended to read:

71-4612. Any district court of this state in which any action is instituted in the case of any willful or negligent refusal to obey a subpoena or order of the department commission issued pursuant to section 71-4611, may issue an order requiring compliance therewith. Any person who fails to obey such order of the court shall be guilty of contempt of court and may be punished by such court accordingly.

Sec. 137. Section 71-4613, Reissue Revised Statutes of Nebraska, is amended to read:

71-4613. Each manufacturer of manufactured homes which selects the department commission to perform plan review shall:

(1) Submit, in accordance with regulations and standards adopted by the United States Secretary of Housing and Urban Development, the building plans for every model of its manufactured homes to the department commission for the purpose of inspection. The manufacturer shall certify that each building plan meets the standards in force at that time before the respective model is produced;

(2) Establish and maintain records, make reports, and provide information as the department commission may reasonably require to enable it to determine whether such manufacturer or any distributor or dealer has acted or is acting in compliance with the Uniform Standard Code for Manufactured Homes and Recreational Vehicles and standards adopted pursuant thereto;

(3) Upon request of a person duly designated by the department commission, permit such person to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer or any distributor or dealer has acted or is acting in compliance with the code and standards adopted pursuant to the code; and

(4) Provide to the department commission all performance data and other technical data related to performance and safety as may be required by the department commission to carry out the purposes of the code. Such data shall include records of tests and test results which the department commission may require to be performed.

Sec. 138. Section 71-4614, Reissue Revised Statutes of Nebraska, is amended to read:

71-4614. The department commission may require the manufacturer to give notification of performance and technical data to:

(1) Each prospective purchaser before the first sale for purposes other than resale at each location where any such manufacturer's manufactured homes or recreational vehicles are offered for sale by a person with whom such manufacturer has a contractual, proprietary, or other legal relationship and in a manner determined by the department commission to be appropriate, which notification may include, but need not be limited to, printed matter that is both available for retention by such prospective purchaser and sent by mail to such prospective purchaser upon his or her request; and

(2) The first person who purchases a manufactured home or recreational vehicle for purposes other than resale, at the time of such purchase or in printed matter placed in the manufactured home or recreational vehicle.

Sec. 139. Section 71-4615, Reissue Revised Statutes of Nebraska, is amended to read:

71-4615. All information reported to or otherwise obtained by the department commission or its duly authorized representatives pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles which contains or relates to a trade secret, or which, if disclosed, would put the person furnishing such information at a substantial competitive disadvantage, shall be considered confidential, except that such information may be disclosed to other officers or employees concerned with carrying out the code or, when relevant, in any proceeding under the code.

Sec. 140. Section 71-4616, Reissue Revised Statutes of Nebraska, is amended to read:

71-4616. (1) Every manufacturer shall furnish notification of any failure to conform in any manufactured home or recreational vehicle produced by such manufacturer which the manufacturer determines, in good faith, violates a standard adopted by the department commission or which constitutes an imminent safety hazard or serious defect in a single manufactured home or recreational vehicle or noncompliance determined to be in a class of manufactured homes or recreational vehicles to the purchaser of such manufactured home or recreational vehicle, within a reasonable time after such manufacturer has discovered the failure to conform.

(2) The notification required by this section shall be accomplished:

(a) By certified mail to the first purchaser, not including any dealer or distributor of such manufacturer, of the manufactured home or recreational vehicle containing the failure to conform and to any subsequent purchaser to whom any warranty on such manufactured home or recreational vehicle has been transferred;

(b) By certified mail to any other person who is a registered owner of such manufactured home or recreational vehicle and whose name and address has been ascertained pursuant to procedures established under section 71-4619; and

(c) By certified mail or other more expeditious means to the dealer or dealers of such manufacturer to whom such manufactured home or recreational vehicle was delivered.

(3) The notification required by subsection (1) of this section shall contain a clear description of such failure to conform, an evaluation of the risk to occupant safety reasonably related to such failure to conform, and a statement of the measures needed to repair the failure to conform. The notification shall also inform the owner whether the failure to conform is a construction or safety failure to conform which the manufacturer will have corrected at no cost to the owner of the manufactured home or recreational vehicle or a failure to conform which must be corrected at the expense of the owner.

Sec. 141. Section 71-4617, Reissue Revised Statutes of Nebraska, is amended to read:

71-4617. Every manufacturer shall furnish to the department

commission a true or representative copy of all notices, bulletins, and other communications sent to the dealers of the manufacturer or to purchasers of manufactured homes or recreational vehicles of the manufacturer regarding any imminent safety hazard or serious defect in a single manufactured home or recreational vehicle or a noncompliance determined to be in a class of manufactured homes or recreational vehicles produced by the manufacturer. The department commission shall disclose to the public so much of the information contained in such notices or other information obtained pursuant to the Uniform Standard Code for Manufactured Homes and Recreational Vehicles as it deems will assist in carrying out the purposes of the code, but it shall not disclose any information which contains or relates to a trade secret or which, if disclosed, would put the manufacturer at a substantial competitive disadvantage, unless the department commission determines that such disclosure is necessary to carry out the purposes of the code.

Sec. 142. Section 71-4618, Reissue Revised Statutes of Nebraska, is amended to read:

71-4618. (1) If the department commission determines that any manufactured home or recreational vehicle (a) does not comply with an applicable standard adopted by the department commission or (b) contains a failure to conform which constitutes an imminent safety hazard or serious defect in a single manufactured home or recreational vehicle or a noncompliance determined to be in a class of manufactured homes or recreational vehicles, it shall immediately notify the manufacturer of such failure to conform. The notice shall contain the findings of the department commission and shall include all information upon which the findings are based.

(2) The department commission shall afford such manufacturer an opportunity to present its views and supporting evidence to establish that there is no failure to conform. If, after such presentation by the manufacturer, the department commission determines that there is a failure to conform with applicable departmental standards or a failure to conform which constitutes a serious defect or an imminent safety hazard, the department commission shall direct the manufacturer to furnish the notification specified in section 71-4616.

Sec. 143. Section 71-4619, Reissue Revised Statutes of Nebraska, is amended to read:

71-4619. Every manufacturer shall maintain a record of the name and address of the first purchaser of each manufactured home or recreational vehicle for purposes other than resale and, to the maximum extent feasible and reasonable, shall maintain procedures for ascertaining the name and address of any subsequent purchaser and shall maintain a record of names and addresses so ascertained. Such records shall be kept for each manufactured home or recreational vehicle produced by a manufacturer. The department commission may establish by rule and regulation procedures to be followed by manufacturers in establishing and maintaining such records, including procedures to be followed by distributors and dealers to assist manufacturers to secure the information required by this section.

Sec. 144. Section 71-4620, Reissue Revised Statutes of Nebraska, is amended to read:

71-4620. (1) A manufacturer required to furnish notification of a failure to conform under section 71-4616 or 71-4618 shall also bring the manufactured home or recreational vehicle into compliance with applicable departmental commission standards and correct the failure to conform or have the failure to conform corrected within a reasonable period of time at no expense to the owner if the failure to conform presents an unreasonable risk of injury or death to occupants and the failure to conform can be related to an error by the manufacturer in design or assembly.

(2) The department commission may direct the manufacturer to make such corrections after providing an opportunity for oral and written presentation of views by interested persons. Nothing in this section shall limit the rights of the purchaser or any other person under any contract or applicable law.

(3) The manufacturer shall submit a remedy plan for repairing such failure to conform to the department commission for its approval, or the manufacturer shall notify the department commission of the corrective action ~~the manufacturer~~ has taken and request departmental ~~state~~ approval. Whenever a manufacturer is required to correct a failure to conform, the department commission shall approve with or without modification, after consultation with the manufacturer, the manufacturer's remedy plan, including the date when and the method by which the notification and remedy required pursuant to this section shall be effectuated. Such date shall be the earliest practicable one but shall not be more than sixty days after the date

of discovery or determination of the failure to conform, unless the department commission grants an extension of such period for good cause shown. The manufacturer shall implement any remedy plan approved by the department commission.

(4) When a failure to conform cannot be adequately repaired within sixty days from the date of discovery or determination of the failure to conform, the department commission may require that the manufactured home or recreational vehicle be replaced with a new or equivalent manufactured home or recreational vehicle without charge or that the purchase price be refunded in full, less a reasonable allowance for depreciation based on actual use if the manufactured home or recreational vehicle has been in the possession of the owner for more than one year.

Sec. 145. All rules, regulations, and orders of the Department of Health and Human Services Regulation and Licensure or its predecessor agency adopted prior to the operative date of this section, in connection with the powers, duties, and functions transferred to the Public Service Commission under the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.

No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to the operative date of this section, or which could have been commenced prior to that date, by or against such department or agency, or the director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from such department or agency to the commission.

On and after the operative date of this section, unless otherwise specified, whenever any provision of law refers to such department or agency in connection with duties and functions transferred to the commission, the law shall be construed as referring to the commission.

Any costs incurred by the department and associated with the transfer of powers, duties, and functions to the commission under the code shall be borne by the commission.

Sec. 146. Section 71-5176, Revised Statutes Supplement, 1997, is amended to read:

71-5176. (1) The Board of Emergency Medical Services is established. The board shall have ~~fifteen~~ seventeen members appointed by the Governor with the approval of a majority of the Legislature. The appointees may begin to serve immediately following appointment and prior to approval by the Legislature.

(2)(a) Seven members of the Board of Emergency Medical Services shall be active out-of-hospital emergency care providers at the time of and for the duration of their appointment, and each shall have at least five years of experience in his or her level of certification at the time of his or her appointment or reappointment. Two of the seven members who are out-of-hospital emergency care providers shall be first responders, two shall be emergency medical technicians, one shall be an emergency medical technician-intermediate, and two shall be emergency medical technicians-paramedic.

(b) Three of the members shall be qualified physicians actively involved in emergency medical care. At least one of the physician members shall be a board-certified surgeon, and at least one of the physician members shall be a board-certified emergency physician.

(c) ~~Of the remaining five~~ Five members, shall be appointed to include one member ~~shall be who is~~ a representative of an approved training agency, one member ~~shall be who is~~ a physician assistant with at least five years of experience and active in out-of-hospital emergency medical care education, one member ~~shall be who is~~ a registered nurse with at least five years of experience and active in out-of-hospital emergency medical care education, and two members ~~shall be who are~~ consumers who have been residents of the State of Nebraska for five years with an expressed interest in the provision of out-of-hospital emergency medical care.

(d) The remaining two members shall have any of the qualifications listed in subdivision (a), (b), or (c) of this subsection.

(e) In addition to any other criteria for appointment, among the members of the board there shall be at least one member who is a volunteer emergency medical care provider, at least one member who is a paid emergency medical care provider, at least one member who is a firefighter, at least one member who is a law enforcement officer, and at least one member who is active in the Critical Incident Stress Management Program. If a person appointed to the board is qualified to serve as a member in more than one capacity, all qualifications of such person shall be taken into consideration to determine

whether or not the diversity in qualifications required in this subsection has been met.

~~(e)~~ No more than five members of the board may reside in any single  
~~(f)~~ At least five members of the board shall be appointed from each  
 congressional district. No more than one physician member shall reside in any  
 single congressional district.

(3) The Governor shall make the initial appointments to the board within ninety days after September 13, 1997. Five of the initial members shall be appointed for terms of one year as determined by the Governor. ~~Five~~ Six of the initial members shall be appointed for terms of two years as determined by the Governor. ~~Five~~ Six of the initial members shall be appointed for terms of three years as determined by the Governor. After the initial appointments, all members shall serve three-year terms. Each member shall hold office until the expiration of his or her term. Any vacancy in membership, other than by expiration of a term, shall be filled within ninety days by the Governor by appointment as provided in subsection (2) of this section.

(4) Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(5) The board shall meet within ninety days after the appointment of the initial members and shall meet at least once each year thereafter. Special meetings of the board may be called by the department or upon the written request of any ~~five~~ six members of the board explaining the reason for such meeting. The place of the meetings shall be set by the department. At the first meeting of the board, such officers as the board deems necessary shall be elected. A majority of the members shall constitute a quorum for the transaction of business. Every act of the majority of the members of the board present at a meeting of the board shall be deemed to be the act of the board. The board shall comply with sections 84-1408 to 84-1414.

(6) The department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures for resolution of conflicts of interest.

(7) The Governor upon recommendation of the department shall have power to remove from office at any time any member of the board for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a professional license or certificate may be suspended or revoked pursuant to the Uniform Licensing Law, or for a lack of license or certificate required by the Emergency Medical Services Act.

(8) Except as provided in subsection (7) of this section and notwithstanding subsection (2) of this section, a member of the board who changes his or her certification classification after appointment when such certification classification was a qualification for appointment shall be permitted to continue to serve as a member of the board until the expiration of his or her term.

Sec. 147. Section 71-5184, Revised Statutes Supplement, 1997, is amended to read:

71-5184. An out-of-hospital emergency care provider other than a first responder as classified under section 71-5178 may not assume the duties incident to ~~such~~ the title or practice the skills ~~thereof~~ of an out-of-hospital emergency care provider unless he or she is employed by or serving as a volunteer member of an emergency medical service licensed by the department. An out-of-hospital emergency care provider ~~and he or she~~ may only practice the skills he or she is authorized to employ and which are covered by the ~~license certificate~~ except as provided in subdivision (7) of section 71-5178.

Sec. 148. Section 71-5402, Reissue Revised Statutes of Nebraska, is amended to read:

71-5402. As used in the Nebraska Drug Product Selection Act, unless the context otherwise requires:

(1) Brand name ~~shall mean~~ means the proprietary or trade name selected by the manufacturer, distributor, or packager for and placed upon a drug and placed upon its container, label, or wrapping at the time of packaging;

(2) Generic name ~~shall mean~~ means the official title of a drug or drug combination as determined by the United States Adopted Names and accepted by the federal Food and Drug Administration of those drug products having exactly the same active chemical ingredients in exactly the same strength and quantity;

(3) Drug product select ~~shall mean~~ means to dispense, without the duly licensed prescriber's express authorization, a chemically equivalent and

bioequivalent drug product in place of the drug product ordered or prescribed;

(4) Chemically equivalent ~~shall mean~~ means drug products that contain amounts of the identical therapeutically active ingredients in the identical strength, quantity, and dosage form and that meet present compendial standards;

(5) Bioequivalent ~~shall mean~~ means drug products that:

(a) Are legally marketed under regulations promulgated by the federal Food and Drug Administration;

(b) Are the same dosage form of the identical active ingredients in the identical amounts as the drug product prescribed;

(c) Comply with compendial standards and are consistent from lot to lot with respect to (i) purity of ingredients, (ii) weight variation, (iii) uniformity of content, and (iv) stability; and

(d) For which the federal Food and Drug Administration has established bioequivalent standards or has determined that no bioequivalence problems exist;

(6) Pharmacist ~~shall mean~~ means a pharmacist duly licensed in accordance with the Uniform Licensing Law;

(7) Medical practitioner ~~shall mean~~ a duly licensed physician, physician and surgeon, osteopathic physician, dentist, podiatrist, or veterinarian licensed in accordance with the Uniform Licensing Law has the same meaning as in section 71-1,142; and

(8) Department ~~shall mean~~ means the Department of Health and Human Services Regulation and Licensure.

Sec. 149. Section 71-5403, Reissue Revised Statutes of Nebraska, is amended to read:

71-5403. (1) Except as limited (a) by this section, when a medical practitioner designates that no drug product selection is permitted, and (b) by subsection (1) of section 71-5404, unless the purchaser instructs otherwise, the pharmacist may drug product select a drug product with the same generic name in the same strength, quantity, dose, and dosage form as the prescribed drug which is, in the pharmacist's professional opinion, bioequivalent, except that products designated as controlled substances as listed in Schedule I of section 28-405 shall not be interchanged. It shall be the responsibility of the purchaser or the ultimate user to advise or instruct the pharmacist that he or she does not desire drug product selection, and it shall not be mandatory for the pharmacist to drug product select against his or her professional judgment.

(2) The department may adopt and promulgate necessary rules and regulations, upon the joint recommendation of the Board of Examiners in Medicine and Surgery and the Board of Examiners in Pharmacy, relating to (a) bioavailability, (b) fraudulent or misleading advertising pertaining to drug product selection, and (c) the control of conditions in which the prescribing practitioner or purchaser should be advised when drug product selection has been made by the pharmacist.

(3) A medical practitioner duly authorized to prescribe drugs, medicinal substances, or controlled substances may specify in writing or by telephonic communication on each prescription that there shall be no drug product selection for the specified brand name drug in any prescription. The phrase no drug product selection or the notation N.D.P.S. shall be specified on the prescription form or orally communicated by the medical practitioner. The pharmacist shall note N.D.P.S. on the face of the prescription if such is communicated orally by the prescribing medical practitioner.

(4) Each pharmacy shall post a sign in a location easily seen by patrons at the counter where prescriptions are dispensed stating that this pharmacy may be able to select a less expensive drug product which is bioequivalent to the one prescribed by the prescriber unless the purchaser does not approve. The sign shall be provided by the department, at a cost to the pharmacy which shall not exceed the actual cost of printing to the department, and the printing on the sign shall be in block letters not less than one inch in height.

(5) A pharmacist shall not drug product select a product under the provisions of this section unless: (a) The product, if it is in solid dosage form, has been marked with an identification code or monogram directly on the dosage unit; (b) the product has been labeled with an expiration date; (c) the manufacturer, distributor, or packager provides reasonable services to accept return products that have reached their expiration date; and (d) the manufacturer, distributor, or packager maintains recall capabilities for unsafe or defective drugs.

(6) (a) Except as provided in subdivision (b) of this subsection, a pharmacist shall not drug product select a product under this section that is:

(i) An enteric-coated tablet or capsule;



- (ii) An injectable suspension other than an antibiotic or insulin;
  - (iii) A controlled-release product;
  - (iv) A suppository containing active ingredients for which systemic absorption is necessary; or
  - (v) A different delivery system for aerosol and nebulizer drugs.
- (b) A pharmacist may drug product select a product set forth in subdivision (a) of this subsection if such product has been determined by the Food and Drug Administration to be bioequivalent and therapeutically equivalent to the prescribed drug.
- (7) The department shall maintain a list of drug products for which bioequivalency has been demonstrated and documented either federally or by the state.

Sec. 150. Section 71-5404, Reissue Revised Statutes of Nebraska, is amended to read:

71-5404. (1) A pharmacist may drug product select a drug product pursuant to subsection (1) of section 71-5403 only when there will be a savings in cost to the purchaser, except that, if a pharmacy does not have in stock the prescribed drug product and the medical practitioner has not indicated N.D.P.S., and the only equivalent drug product in stock is the same or higher priced, the pharmacist, with the consent of the purchaser, may substitute the same or the higher priced drug product. Any savings resulting from drug product selection shall be reflected in the price charged the purchaser by the pharmacist.

(2) Whenever a drug product has been prescribed with the notation that no drug product selection is permitted for a patient who has a contract whereunder he or she is reimbursed for the cost of health care, directly or indirectly, the party that has contracted to reimburse the patient, directly or indirectly, shall make reimbursements on the basis of the brand name price and not on the basis of the generic or chemical equivalent or bioequivalent drug price, unless the contract specifically requires generic reimbursement under the Code of Federal Regulations.

(3) If the physician prescribes a drug by its generic name, the pharmacist shall, consistent with reasonable professional judgment, dispense an effective brand which is the lowest retail cost brand in stock.

(4) All prescriptions dispensed shall bear upon the label the name of the medication in the container unless the prescriber writes do not label or words of similar import on the prescription or so designates in an oral transmission of the prescription.

(5) Nothing in this section shall require a pharmacy, which prices prescriptions upon a professional fee basis, to charge less than its established minimum price for the filling of any prescription.

(6) Whenever a purchaser or patient presents a prescription that may be filled with a product selected by the pharmacist under the provisions of this section and the pharmacist chooses to make such selection, the pharmacist shall advise the purchaser or patient that he or she may indicate orally or in writing that he or she does not desire drug product selection and in that instance the prescription shall be filled as ordered. On all subsequent refills the drug product dispensed shall be distributed and manufactured by the same company as the drug product dispensed on the original prescription.

(7) When a pharmacist chooses to exercise the provisions of this section when dispensing prescriptions for patients in long-term care facilities, the pharmacist shall advise either the patient, a representative of the patient, or a staff nurse of the facility that he or she has exercised the provisions of this section, and either the patient or his or her representative or a staff nurse of the facility may indicate orally or in writing that he or she does not desire drug product selection, and in that instance the prescription shall be filled as written.

(8) Nothing contained in this section shall be construed to prohibit any hospital licensed by the Department of Health and Human Services Regulation and Licensure from establishing rules and regulations regarding the method by which medications are prescribed and dispensed for patients of such hospitals.

Sec. 151. Section 71-5647, Reissue Revised Statutes of Nebraska, is amended to read:

71-5647. The Office of Rural Health is hereby created within the Department of Health and Human Services. ~~Regulation and Licensure.~~ The office shall have the following powers and duties:

(1) To assist rural residents in obtaining high quality health care which includes the following:

(a) Assist in the recruitment and retention of health care professionals to rural areas, including specifically physicians and nurses;

(b) Assist rural communities in maintaining the viability of

hospital services whenever feasible or, for communities in transition, in developing alternative systems to provide equivalent quality care to their residents;

(c) Assist rural communities in planning to meet changes needed due to the changing rural economy and demographics or new technology;

(d) Assist in the development of health care networks or cooperative ventures among rural communities or health care providers;

(e) Assist in promoting or developing demonstration projects to identify and establish alternative health care systems; and

(f) Assist rural communities in developing and identifying leaders and leadership skills among their residents to enable such communities to work toward appropriate and cost-effective solutions to the health care issues that confront them;

(2) To develop a comprehensive rural health policy to serve as a guide for the development of programs of the department aimed at improving health care in rural Nebraska and a rural health action plan to guide implementation of the policy;

(3) To establish liaison with other state agency efforts in the area of rural development and human services delivery to ensure that the programs of the office are appropriately coordinated with these efforts and to encourage use of the comprehensive rural health policy by other agencies as a guide to their plans and programs affecting rural health;

(4) To develop and maintain an appropriate data system to identify present and potential rural health issues and to evaluate the effectiveness of programs and demonstration projects;

(5) To encourage and facilitate increased public awareness of issues affecting rural health care;

(6) To carry out its duties under the Rural Health Systems and Professional Incentive Act;

(7) To carry out the duties required by section 71-5206.01; and

(8) To carry out related duties as directed by the Director of ~~Regulation and Licensure~~ Health and Human Services.

Sec. 152. Section 71-5649, Reissue Revised Statutes of Nebraska, is amended to read:

71-5649. The Legislature shall appropriate sufficient funds to the Department of Health and Human Services ~~Regulation and Licensure~~ to enable the Office of Rural Health to carry out its duties pursuant to section 71-5647.

Sec. 153. Section 71-5653, Reissue Revised Statutes of Nebraska, is amended to read:

71-5653. For purposes of the Rural Health Systems and Professional Incentive Act:

(1) Approved specialty means family practice, general practice, general internal medicine, general pediatrics, general surgery, obstetrics/gynecology, and psychiatry;

(2) Commission means the Nebraska Rural Health Advisory Commission;

(3) Department means the Department of Health and Human Services; ~~Regulation and Licensure~~

(4) Full-time practice means a minimum of forty hours per week;

(5) Health care means both somatic and mental health care services;

(6) Office means the Office of Rural Health;

(7) Qualified educational debts means government and commercial loans obtained by students for postsecondary education tuition, other educational expenses, and reasonable living expenses, as determined by the department, but does not include loans received under the act or the Nebraska Medical Student Assistance Act; and

(8) Rural means located within any county in Nebraska having a population of less than fifteen thousand inhabitants and not included within a metropolitan statistical area as defined by the United States Department of Commerce, Bureau of the Census.

Sec. 154. Section 71-5655, Reissue Revised Statutes of Nebraska, is amended to read:

71-5655. The purpose of the commission shall be to advise the Department of Health and Human Services, ~~Regulation and Licensure~~, the Legislature, the Governor, the University of Nebraska, and the citizens of Nebraska regarding all aspects of rural health care and to advise the office regarding the administration of the Rural Health Systems and Professional Incentive Act.

Sec. 155. Section 71-5656, Reissue Revised Statutes of Nebraska, is amended to read:

71-5656. The commission shall annually elect from among its members a chairperson and a vice-chairperson. ~~The Director of Regulation and Licensure or his or her designee shall serve as permanent secretary to the~~

~~commissioner~~, with The commission shall receive assistance from the staff of the office.

Sec. 156. Section 71-5678, Reissue Revised Statutes of Nebraska, is amended to read:

71-5678. (1) The University of Nebraska Medical Center, the Office of Rural Health, and the Department of Health and Human Services ~~Regulation and licensure~~ shall develop, implement, and coordinate a program by which communities or groups of communities within designated professional practice areas provide repayment agreements for students receiving loans under the Rural Health Opportunities Loan Act. Such communities shall sign agreements with the Board of Regents of the University of Nebraska to assume the student's loan repayment responsibility contingent upon continued practice in the community or communities by the loan recipient. Whenever possible, an elected official of the community or communities should be a party to the agreement.

(2) If a sponsoring community is found, the community or communities, the Board of Regents of the University of Nebraska, and the student shall execute an agreement which states the terms of employment and compensation and states that the community or communities shall assume the loans of the student provided by the Rural Health Opportunities Loan Act, shall repay the loans with interest at a rate of one point below the prime interest rate, and shall retire one year's worth of loan debt for each year of full-time practice in the community or communities. If the practice is less than full time, the loan shall be retired accordingly. Payments by the community or communities shall be made directly to the Rural Health Opportunities Loan Pool Fund in quarterly payments. The term of the agreement shall be equal to the number of years of study for which loans were received if the practice is full time or extended to a duration which is the equivalent if the practice is less than full time.

Sec. 157. Section 71-7409, Reissue Revised Statutes of Nebraska, is amended to read:

71-7409. Emergency medical reasons shall mean the alleviation of a temporary shortage by transfers of prescription drugs ~~by a retail pharmacy to another retail pharmacy between any of the following: Holders of pharmacy permits, holders of hospital pharmacy inspection certificates, and medical practitioners as defined in section 71-1,142.~~

Sec. 158. Section 71-7416, Reissue Revised Statutes of Nebraska, is amended to read:

71-7416. No wholesale drug distributor, manufacturer, or pharmacy shall knowingly purchase or receive any prescription drug from any source other than a person or entity licensed pursuant to the Wholesale Drug Distributor Licensing Act except transfers for emergency medical reasons, the gross dollar value of which shall not exceed five percent of the total prescription drug sales revenue of ~~either the transferor or transferee~~ holder of a pharmacy permit, holder of a hospital pharmacy inspection certificate, or medical practitioner as defined in section 71-1,142 during any period of twelve consecutive months the immediately preceding calendar year, and except as otherwise provided in the act.

Sec. 159. Section 79-219, Reissue Revised Statutes of Nebraska, is amended to read:

79-219. The Department of Health and Human Services ~~Regulation and licensure~~ shall adopt and promulgate rules and regulations relating to the required levels of protection, provisional enrollment under the provisions of section 79-222, the evidence necessary to prove that the required examination or immunization has been received, and the reporting of each student's immunization status. The department may modify, add to, or delete from the list of required immunizations set out in section 79-217. The department shall furnish local school authorities with copies of such rules and regulations and any other material which will assist in the carrying out of sections 79-214 and 79-217 to 79-223.

Sec. 160. Section 81-5,147, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,147. The State Fire Marshal, with the advice of the Accessibility Advisory Committee, shall adopt and promulgate:

(1) ~~Standards, standards,~~ specifications, and exclusions which are consistent with the most current uniform guidelines and standards set by the federal Americans with Disabilities Act of 1990, as amended, for ~~41~~ (a) buildings and facilities which are newly constructed for first occupancy and ~~42~~ (b) alterations of existing buildings and facilities used by the public. For purposes of this section, alterations of an existing building or facility used by the public shall include remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural

parts or elements, and changes or rearrangements in the plan or configuration of the height of walls or partitions. Normal maintenance, reroofing, painting, wallpapering, asbestos removal, or changes to mechanical and electrical systems shall not be considered alterations; and

(2) Standards and specifications which are consistent with the most current uniform guidelines and standards set by the federal Fair Housing Act of 1968, as adopted by the State of Nebraska, for new constructed covered multifamily dwellings as defined in section 20-319.

Sec. 161. Section 81-5,148, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,148. The responsibility for enforcement of the standards and specifications adopted pursuant to section 81-5,147 for (1) buildings and facilities which are newly constructed for first occupancy, and (2) alterations of existing buildings and facilities used by the public, and (3) new constructed covered multifamily dwellings as defined in section 20-319 shall lie with the State Fire Marshal or the appropriate officials of the governing bodies of the state government and its political subdivisions responsible for the review and approval of the building plans. Enforcement responsibility includes an appeal process conducted by the enforcing authority for the appeal of any enforcement action or proposed enforcement action. With respect to the enforcement of section 81-5,147 as described in subdivisions (1) and (2) of this section, when plans are being reviewed for both building code and fire code regulations, the officials responsible for building code review shall be responsible for enforcement of such section 81-5,147. With respect to the enforcement of section 81-5,147 as described in subdivision (3) of this section, when plans are being reviewed for both building code and fire code regulations, the officials in a city of the metropolitan, primary, or first class shall be responsible for enforcement of section 81-5,147. Officials in a city of the second class or village shall not be responsible for enforcement of section 81-5,147 as described in subdivision (3) of this section if such officials have submitted to the State Fire Marshal a written statement declaring their intent not to assume responsibility for such enforcement. When plans are being reviewed solely for fire code regulations or when the officials responsible for building code review have submitted such a written statement, the State Fire Marshal or his or her designee shall be responsible for enforcement of such section 81-5,147. No official of any governing body of the state government or its political subdivisions responsible for such enforcement shall approve or authorize an occupancy permit unless such building, facility, or dwelling or facility complies with the standards and specifications prescribed by such section. Any unauthorized departure from the standards and specifications established by the State Fire Marshal pursuant to such section may be corrected by full compliance with such standards and specifications within one hundred twenty eight days after discovery of such departure. Failure to correct an unauthorized departure from such standards and specifications shall result in denial or revocation of the occupancy permit for the building, facility, or dwelling, or facility.

Sec. 162. Section 81-5,149, Reissue Revised Statutes of Nebraska, is amended to read:

81-5,149. (1) For purposes of providing, in an advisory capacity only, technical assistance to the State Fire Marshal (a) to aid in establishing standards and specifications in accordance with the Accessibility Guidelines of the federal Americans with Disabilities Act of 1990, as amended, for (i) buildings and facilities which are newly constructed for first occupancy and (ii) alterations of existing buildings and facilities used by the public, and (b) to aid in establishing standards and specifications in accordance with the federal Fair Housing Act of 1968, as adopted by the State of Nebraska, for new constructed covered multifamily dwellings as defined in section 20-319, and (c) on individual cases of accessibility problems arising under the standards and specifications established pursuant to section 81-5,147, and any other advice the State Fire Marshal deems necessary to carry out his or her duties pursuant to such act or section the federal Americans with Disabilities Act of 1990 or section 81-5,147, there is hereby established the Accessibility Advisory Committee composed of ten members.

(2) The committee shall consist of the following members who shall be skilled and knowledgeable in the area of accessibility standards and functional disability limitations: (a) An architect, (b) the state building administrator or his or her authorized representative, (c) a construction contractor, (d) four persons with a disability in one of each of the following categories: (i) Vision; (ii) hearing; (iii) cognitive; and (iv) mobility, (e) two persons responsible for local building code enforcement, one from a community of less than fifty thousand inhabitants and one from a community of

fifty thousand inhabitants or more, and (f) one person experienced in real property management. The members shall be appointed by the Governor within thirty days after September 9, 1993. The members shall serve for terms of four years, except that of the members first appointed, the architect and two of the persons with a disability shall serve for terms of three years and the other two persons with a disability shall serve for terms of two years. As the term of each member expires, a successor shall be appointed from the same category as the person whose term expired for a term of four years.

Sec. 163. Section 81-657, Reissue Revised Statutes of Nebraska, is amended to read:

81-657. (1) If a person with brain or head injury is not admitted to a hospital within the state but is treated in this state in the office of a physician or psychologist licensed under the Uniform Licensing Law, the treating physician or psychologist shall report the brain or head injury to the department within thirty days after identification of the person sustaining such injury. Each treating physician or psychologist shall be required to report each brain or head injury only one time.

(2) Each hospital within the state shall report a brain or head injury which results in inpatient admission or outpatient treatment to the department within thirty days after discharge of the person sustaining such injury.

(3) The report shall contain the following information about the person sustaining the injury:

- (a) Name;
- (b) Social security number;
- (c) Date of birth;
- (d) Gender;
- (e) Race or ethnicity;
- (f) Residence;

~~(g)~~ (g) Date of the injury;

~~(h)~~ (h) Final diagnosis or classification of the injury according to the International Classification of Disease, Clinical Modification Coding System, as adopted by the department;

- ~~(i)~~ (i) Cause of the injury;
- ~~(j)~~ (j) Identification of the reporting source;
- ~~(k)~~ (k) Dispensation upon discharge;
- (l) Favor source; and

~~(m)~~ (m) Any additional information the department can demonstrate is reasonable in order to implement the purposes stated in section 81-653.

Sec. 164. Section 81-658, Reissue Revised Statutes of Nebraska, is amended to read:

81-658. (1) Inpatient, post-acute-care facilities, including nursing homes and rehabilitation centers, shall report the treatment of persons with brain or head injury to the department biannually. The report for the months of January through June shall be due on the following August 1, and the report for the months of July through December shall be due on February 1 of the following year.

(2) The reports shall contain the following information about the person sustaining the injury:

- (a) Name;
- (b) Social security number;
- (c) Date of birth;
- (d) Gender;
- (e) Race or ethnicity;
- (f) Preadmission residence;

~~(g)~~ (g) Admitting diagnosis;

~~(h)~~ (h) Cause of the injury;

~~(i)~~ (i) Length of stay at the facility, including dates of admission and discharge;

- ~~(j)~~ (j) Dispensation upon discharge;
- ~~(k)~~ (k) Identification of reporting source;
- (l) Favor source; and

~~(m)~~ (m) Any additional information the department can demonstrate is reasonable in order to implement the purposes stated in section 81-653.

Sec. 165. Section 81-1316, Revised Statutes Supplement, 1996, is amended to read:

81-1316. (1) All agencies and personnel of state government shall be covered by sections 81-1301 to 81-1319 and shall be considered subject to the State Personnel System, except the following:

- (a) All personnel of the office of the Governor;
- (b) All personnel of the office of the Lieutenant Governor;
- (c) All personnel of the office of the Secretary of State;

- (d) All personnel of the office of the State Treasurer;
- (e) All personnel of the office of the Attorney General;
- (f) All personnel of the office of the Auditor of Public Accounts;
- (g) All personnel of the Legislature;
- (h) All personnel of the court systems;
- (i) All personnel of the Board of Educational Lands and Funds;
- (j) All personnel of the Public Service Commission;
- (k) All personnel of the Nebraska Brand Committee;
- (l) All personnel of the Commission of Industrial Relations;
- (m) All personnel of the State Department of Education;
- (n) All personnel of the Nebraska state colleges and the Board of Trustees of the Nebraska State Colleges;

(o) All personnel of the University of Nebraska;

(p) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office; and

(q) All agency heads; and

(r) The Director of Medical Services established under section 83-125 and the chief executive officers of the Beatrice State Developmental Center, Lincoln Regional Center, Norfolk Regional Center, Hastings Regional Center, Grand Island Veterans' Home, Norfolk Veterans' Home, Thomas Fitzgerald Veterans' Home, and Western Nebraska Veterans' Home.

(2) At each agency head's discretion, up to the following number of additional positions may be exempted from the State Personnel System, based on the following agency size categories:

Number of Agency Employees	Number of Noncovered Positions
Less than 25	0
25 to 100	1
101 to 250	2
251 to 500	3
501 to 1000	4
1001 to 2000	5
2001 to 3000	8
3001 to 4000	11
4001 to 5000	14
Over 5000	17

The purpose of having such noncovered positions shall be to allow agency heads the opportunity to recruit, hire, and supervise critical, confidential, or policymaking personnel without restrictions from selection procedures, compensation rules, career protections, and grievance privileges. Persons holding the noncovered positions shall serve at the pleasure of the agency head and shall be paid salaries set by the agency head.

In no case shall a current state employee's career protections or coverage by personnel rules and regulations be revoked without the prior written agreement of such employee.

Sec. 166. Section 81-3004, Revised Statutes Supplement, 1996, is amended to read:

~~81-3004. The directors of the agencies shall work in partnership with the public and agency employees to develop a report to submit to the Governor and legislature by December 17, 1996, to include, but not be limited to:~~

~~(1) A transition plan describing in detail the actions, methods, steps, and timelines necessary to implement redesign of the agencies by January 17, 1997, and the format of the structure, including who shall have access to confidential information at each level, the procedures, accounting mechanisms, funding streams, public accessibility of services by geographic area, and lines of authority that will exist during each phase of transition. To aid the development of the transition plan, The Department of Health and Human Services Finance and Support shall establish a position shall be established with responsibility to respond to questions, concerns, and complaints from consumers, service providers, elected officials, and interested citizens in order to ensure high levels of accountability under the Nebraska Partnership for Health and Human Services Act. A toll-free telephone number shall also be made available and be made public for these purposes. The person in the position shall submit a monthly quarterly report to the Governor, Policy Cabinet, and Legislature. This position shall be established on January 17, 1997, and shall not be terminated prior to July 17, 1998;~~

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

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

~~(4) A long-term plan for developing effective preventive strategies;~~

that reduce the need for more intensive intervention services;

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

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

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

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

Sec. 167. Section 83-107.01, Revised Statutes Supplement, 1997, is amended to read:

83-107.01. The official names of the state institutions under the supervision of the Department of Health and Human Services shall be as follows: (1) Beatrice State Developmental Center, (2) Lincoln Regional Center, (3) Norfolk Regional Center, (4) Hastings Regional Center, (5) Grand Island Veterans' Home, (6) Norfolk Veterans' Home, (7) Thomas Fitzgerald Veterans' Home, and (8) Western Nebraska Veterans' Home, (9) Youth Rehabilitation and Treatment Center-Kearney, and (10) Youth Rehabilitation and Treatment Center-Geneva.

Sec. 168. Section 83-901, Revised Statutes Supplement, 1997, is amended to read:

83-901. The purpose of sections 49-617, 68-621, 72-249, 72-1302 to 72-1304, 81-101, 81-102, 81-1021, 83-101.08, 83-107.01, 83-108, 83-108.04, 83-112, 83-134, 83-135, 83-139, 83-140, 83-144, 83-145, 83-147 to 83-150, 83-153 to 83-156, 83-170 to 83-173, 83-186, 83-188, 83-428, 83-443, 83-448, 83-449, 83-450, 83-451, 83-452, 83-453, 83-454, 83-455, 83-456, 83-457, 83-458, 83-459, 83-460, 83-461, 83-462, 83-463, 83-464, 83-465, 83-466, 83-467, 83-468, 83-469, 83-470, 83-471, 83-472, 83-473, 83-474, 83-475, 83-476, 83-477, 83-478, 83-479, 83-480, 83-481, 83-482, 83-483, 83-484, 83-485, 83-486, 83-487, 83-488, 83-489, 83-490, 83-491, 83-492, 83-493, 83-494, 83-495, 83-496, 83-497, 83-498, 83-499, 83-500, 83-501, 83-502, 83-503, 83-504, 83-505, 83-506, 83-507, 83-508, 83-509, 83-510, 83-511, 83-512, 83-513, 83-514, 83-515, 83-516, 83-517, 83-518, 83-519, 83-520, 83-521, 83-522, 83-523, 83-524, 83-525, 83-526, 83-527, 83-528, 83-529, 83-530, 83-531, 83-532, 83-533, 83-534, 83-535, 83-536, 83-537, 83-538, 83-539, 83-540, 83-541, 83-542, 83-543, 83-544, 83-545, 83-546, 83-547, 83-548, 83-549, 83-550, 83-551, 83-552, 83-553, 83-554, 83-555, 83-556, 83-557, 83-558, 83-559, 83-560, 83-561, 83-562, 83-563, 83-564, 83-565, 83-566, 83-567, 83-568, 83-569, 83-570, 83-571, 83-572, 83-573, 83-574, 83-575, 83-576, 83-577, 83-578, 83-579, 83-580, 83-581, 83-582, 83-583, 83-584, 83-585, 83-586, 83-587, 83-588, 83-589, 83-590, 83-591, 83-592, 83-593, 83-594, 83-595, 83-596, 83-597, 83-598, 83-599, 83-600, 83-601, 83-602, 83-603, 83-604, 83-605, 83-606, 83-607, 83-608, 83-609, 83-610, 83-611, 83-612, 83-613, 83-614, 83-615, 83-616, 83-617, 83-618, 83-619, 83-620, 83-621, 83-622, 83-623, 83-624, 83-625, 83-626, 83-627, 83-628, 83-629, 83-630, 83-631, 83-632, 83-633, 83-634, 83-635, 83-636, 83-637, 83-638, 83-639, 83-640, 83-641, 83-642, 83-643, 83-644, 83-645, 83-646, 83-647, 83-648, 83-649, 83-650, 83-651, 83-652, 83-653, 83-654, 83-655, 83-656, 83-657, 83-658, 83-659, 83-660, 83-661, 83-662, 83-663, 83-664, 83-665, 83-666, 83-667, 83-668, 83-669, 83-670, 83-671, 83-672, 83-673, 83-674, 83-675, 83-676, 83-677, 83-678, 83-679, 83-680, 83-681, 83-682, 83-683, 83-684, 83-685, 83-686, 83-687, 83-688, 83-689, 83-690, 83-691, 83-692, 83-693, 83-694, 83-695, 83-696, 83-697, 83-698, 83-699, 83-700, 83-701, 83-702, 83-703, 83-704, 83-705, 83-706, 83-707, 83-708, 83-709, 83-710, 83-711, 83-712, 83-713, 83-714, 83-715, 83-716, 83-717, 83-718, 83-719, 83-720, 83-721, 83-722, 83-723, 83-724, 83-725, 83-726, 83-727, 83-728, 83-729, 83-730, 83-731, 83-732, 83-733, 83-734, 83-735, 83-736, 83-737, 83-738, 83-739, 83-740, 83-741, 83-742, 83-743, 83-744, 83-745, 83-746, 83-747, 83-748, 83-749, 83-750, 83-751, 83-752, 83-753, 83-754, 83-755, 83-756, 83-757, 83-758, 83-759, 83-760, 83-761, 83-762, 83-763, 83-764, 83-765, 83-766, 83-767, 83-768, 83-769, 83-770, 83-771, 83-772, 83-773, 83-774, 83-775, 83-776, 83-777, 83-778, 83-779, 83-780, 83-781, 83-782, 83-783, 83-784, 83-785, 83-786, 83-787, 83-788, 83-789, 83-790, 83-791, 83-792, 83-793, 83-794, 83-795, 83-796, 83-797, 83-798, 83-799, 83-800, 83-801, 83-802, 83-803, 83-804, 83-805, 83-806, 83-807, 83-808, 83-809, 83-810, 83-811, 83-812, 83-813, 83-814, 83-815, 83-816, 83-817, 83-818, 83-819, 83-820, 83-821, 83-822, 83-823, 83-824, 83-825, 83-826, 83-827, 83-828, 83-829, 83-830, 83-831, 83-832, 83-833, 83-834, 83-835, 83-836, 83-837, 83-838, 83-839, 83-840, 83-841, 83-842, 83-843, 83-844, 83-845, 83-846, 83-847, 83-848, 83-849, 83-850, 83-851, 83-852, 83-853, 83-854, 83-855, 83-856, 83-857, 83-858, 83-859, 83-860, 83-861, 83-862, 83-863, 83-864, 83-865, 83-866, 83-867, 83-868, 83-869, 83-870, 83-871, 83-872, 83-873, 83-874, 83-875, 83-876, 83-877, 83-878, 83-879, 83-880, 83-881, 83-882, 83-883, 83-884, 83-885, 83-886, 83-887, 83-888, 83-889, 83-890, 83-891, 83-892, 83-893, 83-894, 83-895, 83-896, 83-897, 83-898, 83-899, 83-900, 83-901, 83-902, 83-903, 83-904, 83-905, 83-906, 83-907, 83-908, 83-909, 83-910, 83-911, 83-912, 83-913, 83-914, 83-915, 83-916, 83-917, 83-918, 83-919, 83-920, 83-921, 83-922, 83-923, 83-924, 83-925, 83-926, 83-927, 83-928, 83-929, 83-930, 83-931, 83-932, 83-933, 83-934, 83-935, 83-936, 83-937, 83-938, 83-939, 83-940, 83-941, 83-942, 83-943, 83-944, 83-945, 83-946, 83-947, 83-948, 83-949, 83-950, 83-951, 83-952, 83-953, 83-954, 83-955, 83-956, 83-957, 83-958, 83-959, 83-960, 83-961, 83-962, 83-963, 83-964, 83-965, 83-966, 83-967, 83-968, 83-969, 83-970, 83-971, 83-972, 83-973, 83-974, 83-975, 83-976, 83-977, 83-978, 83-979, 83-980, 83-981, 83-982, 83-983, 83-984, 83-985, 83-986, 83-987, 83-988, 83-989, 83-990, 83-991, 83-992, 83-993, 83-994, 83-995, 83-996, 83-997, 83-998, 83-999, 84-000.

Sec. 169. Any person who is blind as defined in section 83-212 and who provides services under contract to the State of Nebraska to a disabled person as defined in section 68-1503 shall be afforded the opportunity to enroll in the state employees group health insurance program until age sixty-five. Eligible persons electing this option shall be responsible for the entire premium cost and an administrative fee consistent with that allowed by federal guidelines for continuation of health insurance.

Sec. 170. The Governor shall commission a study of the state's juvenile justice system for the purposes of determining future legislative and executive actions necessary to address gaps in the organization and delivery of juvenile services. The study shall:

(1) Assess the progress of current juvenile services initiatives and their impact on improving service delivery;

(2) Develop a current detailed description of the number, characteristics, and needs of juvenile offenders and at-risk youth;

(3) Inventory current placement and service resources, including resources for drug treatment, treatment of sexual offenders, and secure confinement of serious offenders, and make recommendations in regard to needed expansion of service capacity;

(4) Examine current statutes and make recommendations in regard to updating and streamlining of laws pertaining to adjudication and disposition of juvenile offenders;

(5) Review promising programs and recommend strategies for implementing community-based diversion and early intervention programs designed to minimize depth and duration of juvenile offenders' penetration into the juvenile justice system;

(6) Review and make recommendations concerning the codification of a graduated sanctions approach in intervening with juvenile offenders; and

(7) Explore opportunities to eliminate fragmentation within the juvenile justice system and recommend strategies to move toward a unified system of care for juvenile offenders and their families.

Sec. 171. The Governor shall assign the study to a task force consisting of the Commissioner of Education, the superintendent of the Nebraska Correctional Youth Facility, the Director of Policy Research, the executive director of the Nebraska Commission on Law Enforcement and Criminal Justice, the probation administrator of the Office of Probation Administration, and the administrators of the Department of Health and Human

Services Protection and Safety Division. The Governor shall also appoint six additional persons from the private and public sectors representing key juvenile justice system stakeholders, county officials, juvenile advocacy groups, service providers, and consumers to serve on the task force. The Governor shall also appoint two members of the Legislature. The appointments to the task force shall be made no later than May 15, 1998. The Governor shall appoint the chairperson of the task force from the membership.

Sec. 172. The task force may gather information from interested parties through public hearings and other appropriate means to assure ample opportunities for outside input to be received for consideration. The task force shall complete its work and issue a final report outlining its findings and recommendations to the Governor and Legislature by December 1, 1998. The Department of Health and Human Services will provide administrative support to the task force and shall be responsible for production and distribution of the final report. Members shall be reimbursed for their actual and necessary expenses incurred while serving as a member of the task force as provided in sections 81-1174 to 81-1177.

Sec. 173. It is the intent of the Legislature that any money appropriated by the Legislature for this study shall be appropriated to the Department of Health and Human Services.

Sec. 174. Sections 1 to 3, 6, 90 to 102, 127 to 145, and 175 of this act become operative May 1, 1998. Sections 7, 8, 11 to 18, 20 to 22, and 176 of this act become operative three calendar months after the adjournment of this legislative session. Sections 4, 5, 160 to 162, and 178 of this act become operative on October 1, 1998. The other sections of this act become operative on their effective date.

Sec. 175. Original sections 14-402, 15-902, 19-902, 23-114, 71-1555, 71-1557 to 71-1563, 71-1565 to 71-1567, 71-4601, 71-4603 to 71-4604.01, 71-4606, and 71-4608 to 71-4620, Reissue Revised Statutes of Nebraska, and section 71-1564, Revised Statutes Supplement, 1997, are repealed.

Sec. 176. Original sections 25-2908, 43-255, 43-256, 43-274, 43-275, and 43-276, Reissue Revised Statutes of Nebraska, sections 28-405, 43-246, and 43-253, Revised Statutes Supplement, 1996, and sections 43-245, 43-250, and 43-251, Revised Statutes Supplement, 1997, are repealed.

Sec. 177. Original sections 43-279, 68-1016 to 68-1017.01, 68-1019, 71-1,147.35, 71-1,147.39, 71-1,147.40, 71-1,147.42 to 71-1,147.46, 71-1,147.48 to 71-1,147.51, 71-1,147.53 to 71-1,147.61, 71-519, 71-522, 71-1913.01, 71-1913.03, 71-2048.01, 71-3410, 71-5402 to 71-5404, 71-5647, 71-5649, 71-5653, 71-5655, 71-5656, 71-5678, 71-7409, 71-7416, 79-219, 81-657, 81-658, 83-473, 83-4,101, 83-4,102, 83-4,104, and 83-925.01, Reissue Revised Statutes of Nebraska, sections 43-258, 43-281, 43-286, 43-905, 43-1320, 81-1316, 81-3004, 83-472, 83-925.02, and 83-925.12, Revised Statutes Supplement, 1996, and sections 29-2204, 43-2,129, 43-536, 43-2624, 48-647, 68-1070, 71-1,142, 71-1,147.41, 71-520, 71-523, 71-604.05, 71-1913.02, 71-2017.01, 71-2024, 71-20,117, 71-2610.01, 71-3406, 71-5176, 71-5184, 83-107.01, 83-901, 83-925.06, 83-925.07, and 83-925.13, Revised Statutes Supplement, 1997, are repealed.

Sec. 178. Original sections 20-139, 20-319, and 81-5,147 to 81-5,149, Reissue Revised Statutes of Nebraska, are repealed.

Sec. 179. The following sections are outright repealed: Sections 83-465, 83-467 to 83-471, 83-473.01, 83-474.01, 83-487, 83-4,103, 83-925.04, and 83-925.08 to 83-925.11, Reissue Revised Statutes of Nebraska, sections 42-121, 43-287, and 83-925.03, Revised Statutes Supplement, 1996, and section 83-925.05, Revised Statutes Supplement, 1997.

Sec. 180. Since an emergency exists, this act takes effect when passed and approved according to law.