

## LEGISLATIVE BILL 296

Approved by the Governor March 15, 2007

Introduced by Johnson, 37; Burling, 33; Erdman, 47; Fischer, 43; Flood, 19; Friend, 10; Gay, 14; Hansen, 42; Hudkins, 21; Janssen, 15; Kruse, 13; Louden, 49; Nantkes, 46; Pankonin, 2; Pedersen, 39; Stuthman, 22; Howard, 9; Pirsch, 4; at the request of the Governor

FOR AN ACT relating to health and human services; to amend sections 2-3925, 2-3932, 13-1207, 23-3595, 31-740, 32-327, 37-1254.05, 37-1254.06, 42-106, 42-358.01, 42-705, 42-917, 43-102, 43-104.01, 43-104.02, 43-104.03, 43-104.04, 43-107, 43-118, 43-119, 43-123.01, 43-124, 43-125, 43-126, 43-127, 43-130, 43-131, 43-132, 43-133, 43-134, 43-135, 43-137, 43-138, 43-139, 43-140, 43-141, 43-142, 43-143, 43-144, 43-145, 43-146, 43-146.02, 43-146.04, 43-146.05, 43-146.06, 43-146.07, 43-146.08, 43-146.09, 43-146.10, 43-146.11, 43-146.12, 43-146.13, 43-146.14, 43-146.15, 43-146.16, 43-161, 43-284.02, 43-404, 43-411, 43-504.01, 43-507, 43-508, 43-511, 43-512, 43-512.11, 43-515, 43-523, 43-525, 43-529, 43-536, 43-905, 43-907, 43-908, 43-1320, 43-1408.01, 43-1414, 43-1718.02, 43-1720, 43-1902, 43-1903, 43-1904, 43-1905, 43-2002, 43-2003, 43-2411, 43-2503, 43-2511, 43-2515, 43-2605, 43-2616, 43-2617, 43-2620, 43-3305.01, 43-3314, 43-3317, 43-3318, 43-3319, 43-3320, 43-3323, 43-3325, 43-3326, 43-3327, 43-3329, 43-3333, 43-3334, 43-3335, 43-3336, 43-3338, 43-3342.04, 44-771, 44-772, 44-773, 44-774, 44-782, 44-793, 44-1102, 44-2835, 44-2847, 44-2901, 44-2904, 44-32,119, 44-32,120, 44-32,127, 44-32,128, 44-32,134, 44-32,136, 44-32,152, 44-32,153, 44-32,156, 44-32,157, 44-32,163, 44-32,165, 44-32,176, 44-4109.01, 44-7006, 44-7107, 44-7206, 44-7306, 46-705, 46-724, 46-1011, 46-1018, 46-1204.01, 46-1207, 46-1235, 46-1235.01, 46-1237.01, 46-1237.02, 46-1240.05, 48-647, 48-1902, 48-2305, 48-2306, 48-2307, 49-506, 49-617, 54-744.01, 54-747, 60-480.01, 60-493, 60-4,118.02, 60-4,164.01, 60-6,104, 60-6,107, 60-6,201, 60-6,202, 68-126, 68-130, 68-309, 68-312, 68-313, 68-703.01, 68-717, 68-718, 68-1001.01, 68-1002, 68-1007, 68-1008, 68-1014, 68-1015, 68-1016, 68-1017, 68-1101, 68-1103, 68-1104, 68-1105, 68-1210, 68-1732, 69-302, 69-305, 71-104, 71-105, 71-139, 71-141, 71-142, 71-150, 71-151, 71-153, 71-155, 71-155.01, 71-156, 71-161.02, 71-161.03, 71-161.06, 71-161.07, 71-161.12, 71-161.13, 71-161.14, 71-161.16, 71-161.17, 71-161.20, 71-165, 71-169, 71-172.01, 71-172.02, 71-181, 71-188, 71-193.13, 71-193.15, 71-193.18, 71-193.19, 71-193.22, 71-1,104, 71-1,107, 71-1,107.06, 71-1,107.07, 71-1,107.08, 71-1,107.16, 71-1,132.53, 71-1,135.02, 71-1,136, 71-1,141, 71-1,147.26, 71-1,147.28, 71-1,147.31, 71-1,147.44, 71-1,147.45, 71-1,147.48, 71-1,147.53, 71-1,147.59, 71-1,154, 71-1,190.01, 71-1,206.05, 71-1,238, 71-1,290, 71-1,341, 71-354, 71-390, 71-3,173, 71-410, 71-411, 71-445, 71-502, 71-502.01, 71-502.02, 71-502.03, 71-502.04, 71-503, 71-504, 71-514.02, 71-516.02, 71-516.03, 71-516.04, 71-524, 71-532, 71-543, 71-602, 71-602.01, 71-604, 71-604.01, 71-605.01, 71-605.02, 71-606, 71-608.01, 71-609, 71-610, 71-611, 71-614, 71-615, 71-616, 71-616.03, 71-616.04, 71-617.02, 71-617.06, 71-617.07, 71-617.08, 71-617.09, 71-617.10, 71-617.11, 71-617.12, 71-617.13, 71-626, 71-626.01, 71-627.01, 71-627.02, 71-629, 71-630, 71-636, 71-639, 71-640.02, 71-640.03, 71-641, 71-644, 71-645, 71-646, 71-647, 71-648, 71-1001, 71-1301, 71-1333.01, 71-1340, 71-1341, 71-1356, 71-1363, 71-1367, 71-1368, 71-1617, 71-1628, 71-1630, 71-1635, 71-1637, 71-1710, 71-1745, 71-1774, 71-1799, 71-17,102, 71-1802, 71-1803, 71-1804, 71-2002, 71-2003, 71-2004, 71-2006, 71-2007, 71-2009, 71-2010, 71-2011, 71-2013, 71-2014, 71-2015, 71-2082, 71-2084, 71-2086, 71-2096, 71-2097, 71-2098, 71-2099, 71-20,100, 71-20,101, 71-20,103, 71-20,113, 71-2201, 71-2202, 71-2203, 71-2207, 71-2208, 71-2407, 71-2408, 71-2409, 71-2411, 71-2503, 71-2506, 71-2509, 71-2511, 71-2610, 71-2617, 71-2619, 71-2620, 71-2621, 71-2622, 71-3101, 71-3102, 71-3104, 71-3305, 71-3306, 71-3401, 71-3402, 71-3410, 71-3502.01, 71-3504, 71-3505, 71-3508.03, 71-3508.04, 71-3513, 71-3517, 71-3526, 71-3702, 71-3706, 71-4302, 71-4303, 71-4304, 71-4305, 71-4306, 71-4401, 71-4621, 71-4624, 71-4635, 71-4701, 71-4813, 71-4816, 71-4819, 71-5175, 71-5192, 71-5197, 71-51,103, 71-5205, 71-5302, 71-5303, 71-5304.01, 71-5304.02, 71-5305.01, 71-5305.02, 71-5306, 71-5310,

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

Section 1. Sections 1 to 15 of this act shall be known and may be cited as the Health and Human Services Act.

Sec. 2. The purposes of the Health and Human Services Act are to (1) provide for the administration of publicly funded health and human services programs and services in the State of Nebraska through the Department of Health and Human Services; (2) transfer programs, services, and duties of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support to a single state agency to be known as the Department of Health and Human Services; (3) create six divisions within the Department of Health and Human Services; (4) require the appointment by the Governor of a single chief executive officer for the department, a director for each of the six divisions of the department, and a chief medical officer; and (5) clarify the department's core missions, scope, functions, and responsibilities; ensure and improve accountability, collaboration, and coordination; and enhance services provided to Nebraskans by the department.

Sec. 3. Effective July 1, 2007, all programs, services, and duties of the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support shall be transferred to the Department of Health and Human Services.

Sec. 4. The Department of Health and Human Services is created. The department shall have six divisions to be known as (1) the Division of Behavioral Health, (2) the Division of Children and Family Services, (3) the Division of Developmental Disabilities, (4) the Division of Medicaid and Long-Term Care, (5) the Division of Public Health, and (6) the Division of Veterans' Homes.

Sec. 5. The Governor shall appoint the chief executive officer of the Department of Health and Human Services who shall have recognized and demonstrated knowledge and expertise in the delivery of publicly funded health and human services programs and services and administrative experience in an executive capacity. The chief executive officer shall report to the Governor and serve at the pleasure of the Governor. The chief executive officer shall be subject to confirmation by a majority vote of the members of the Legislature.

Sec. 6. (1) The Governor shall appoint a director for each division created in section 4 of this act who shall serve at the pleasure of the Governor and shall report to the chief executive officer. Each division director shall be subject to confirmation by a majority of the members of the Legislature.

(2) If the Director of Public Health is licensed to practice medicine and surgery in the State of Nebraska, he or she shall also be the chief medical officer. If the Director of Public Health is not licensed to practice medicine and surgery in the State of Nebraska, the Governor shall appoint a chief medical officer in addition to the Director of Public Health. The chief medical officer shall be licensed to practice medicine and surgery in the State of Nebraska, shall serve at the pleasure of the Governor, and shall be subject to confirmation by a majority of the members of the Legislature.

(3) The chief medical officer shall perform duties under the Uniform Licensing Law enumerated in section 71-155.01, shall be the final decisionmaker in contested cases of health care facilities defined in the Health Care Facility Licensure Act arising under the act and sections 71-6042, 71-6732, and 81-604.03, and shall perform such other duties as provided by law.

Sec. 7. The responsibilities of the divisions created in section 4 of this act include, but are not limited to, the following:

(1) The Division of Behavioral Health shall administer (a) the state hospitals for the mentally ill designated in section 83-305 and (b) publicly funded community-based behavioral health services;

(2) The Division of Children and Family Services shall administer (a) protection and safety programs and services, including child welfare programs and services and the Office of Juvenile Services, (b) economic and family support programs and services, and (c) service areas as may be designated by the chief executive officer or by the Director of Children and Family Services under authority of the chief executive officer;

(3) The Division of Developmental Disabilities shall administer (a) the Beatrice State Developmental Center and (b) publicly funded community-based developmental disabilities services;

(4) The Division of Medicaid and Long-Term Care shall administer (a) the medical assistance program also known as medicaid, (b) aging services, and (c) other related programs and services;

(5) The Division of Public Health shall administer (a) preventive and community health programs and services, (b) the regulation and licensure

of health-related professions and occupations, and (c) the regulation and licensure of health care facilities and health care services; and

(6) The Division of Veterans' Homes shall administer (a) the Eastern Nebraska Veterans' Home, (b) the Grand Island Veterans' Home, (c) the Norfolk Veterans' Home, and (d) the Western Nebraska Veterans' Home.

Sec. 8. The chief executive officer of the Department of Health and Human Services shall:

(1) Supervise and be responsible for the administration of the department and the appointment and removal of employees;

(2) Manage services and programs of the department, whether contracted or delivered directly by the state, including, but not limited to: (a) Delegating appropriate powers and duties to division directors and employees of the department; (b) assuring coordination throughout the department for consumers of services; (c) providing services in accordance with established policies, desired outcomes, priorities, and goals; (d) identifying strategies jointly with communities for accomplishing identified goals and outcomes; and (e) assuring service coordination and access through public education and information, community resource development, technical assistance, and coordinated service management;

(3) Enter into such agreements as may be necessary or appropriate to provide services and manage funds as provided under the Health and Human Services Act, including the administration of federal funds granted to the state in the furtherance of the activities of the department;

(4) Allow for the transfer of personnel and for the authority of one division of the department to act as the agent for another division of the department in carrying out certain services or functions, or a portion of them, or for the joint implementation of public or private grants or performance of contracts;

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

(6) Consult and cooperate with other state agencies so as to coordinate activities in an effective manner with related activities in other agencies;

(7) Adopt and promulgate necessary rules and regulations to implement programs and activities as required by state law or under federal law or regulation governing federal funds, grants, or contracts administered by the department. The authority to adopt and promulgate rules and regulations may be delegated by the chief executive officer to the division directors of the department;

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

(9) Coordinate budget, research, and data collection efforts to insure effectiveness of the department;

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

(11) Seek grants and other funds from federal and other public and private sources to carry out the purposes of the act and the missions and purposes of the department and to accept and administer programs or resources delegated, designated, assigned, or awarded by the Governor or by other public and private sources;

(12) Act as the agent of the federal government in matters of mutual concern in conformity with the Health and Human Services Act and the scope of authority of the department as provided by law;

(13) Facilitate joint planning initiatives in the department;

(14) Adopt and promulgate confidentiality rules and regulations as provided in section 9 of this act;

(15) Delegate the authority to act as decisionmaker in contested cases to the division directors;

(16) Encourage and direct initiatives and collaboration in the department; and

(17) Perform such other duties as are provided by law.

Sec. 9. (1) The chief executive officer of the Department of Health and Human Services may adopt and promulgate rules and regulations which prescribe standards and procedures for access to and security of confidential information among the divisions within the department and within

each division. These include standards for collection, maintenance, and use of information in electronic or other storage media. Procedures for disclosure of confidential information among the divisions shall include a determination by the chief executive officer on whether confidential information should be shared among the divisions. In making the determination, the following factors shall be considered:

(a) The law governing the confidentiality of the information and the original purpose for which the information was collected;

(b) The potential for harm to an individual if the disclosure is made;

(c) Whether the disclosure will enhance the coordination of policy development, service provision, eligibility determination, program management, quality assurance, financial services, or support services;

(d) Whether the information is a trade secret, academic or scientific research work which is in progress and unpublished, or other proprietary or commercial information;

(e) Any limitations placed on the use of the information by the original source of the information;

(f) Whether the proposed use is for a bona fide research project or study, the procedures and methodology of which meet the standards for research in the particular body of knowledge;

(g) The security of the information, including the scope of access, ongoing security, publication, and disposal of the information at the end of its use;

(h) The degree to which aggregate or summary data may identify an individual whose privacy would otherwise be protected; and

(i) Whether such information constitutes criminal intelligence information maintained by correctional or law enforcement authorities.

(2) Otherwise confidential information may be disclosed among the divisions pursuant to subsection (1) of this section if not expressly prohibited by law. Such disclosure shall not be considered a public disclosure or make the record a public record. Any further disclosure may be made only if permitted by law or a policy governing the originating division. Each division shall observe confidentiality of human resources information and employment records, except that the divisions shall act and be considered to be one agency for purposes of human resources issues, employment records, and related matters.

(3) All officials and employees shall be informed regarding laws, rules and regulations, and policies governing confidential information and acknowledge receipt of that information.

Sec. 10. The Health and Human Services Cash Fund is created and shall consist of funds from contracts, grants, gifts, or fees. Any money in the Department of Health and Human Services Cash Fund, the Department of Health and Human Services Finance and Support Cash Fund, and the Department of Health and Human Services Regulation and Licensure Cash Fund on July 1, 2007, shall be transferred to the Health and Human Services Cash Fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 11. The chief executive officer of the Department 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. 12. On and after July 1, 2007, whenever the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure is referred to or designated by any contract or other document in connection with the duties and functions transferred to the Department of Health and Human Services pursuant to the Health and Human Services Act, such reference or designation shall apply to such department. All contracts entered into by the agencies prior to July 1, 2007, in connection with the duties and functions transferred to the department are hereby recognized, with the department succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under

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

Sec. 13. All rules, regulations, and orders of the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure or their predecessor agencies adopted prior to July 1, 2007, in connection with the powers, duties, and functions transferred to the Department of Health and Human Services pursuant to the Health and Human Services 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 July 1, 2007, or which could have been commenced prior to that date, by or against any of such departments, or any director or employee thereof in such director's or employee's official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure to the Department of Health and Human Services.

On and after July 1, 2007, unless otherwise specified, whenever any provision of law refers to the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure in connection with duties and functions transferred to the Department of Health and Human Services, such law shall be construed as referring to such department.

Sec. 14. On and after July 1, 2007, positions of employment in 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 related to the powers, duties, and functions transferred pursuant to the Health and Human Services Act are transferred to the Department of Health and Human Services. For purposes of the transition, employees of the former departments shall be considered employees of the Department of Health and Human Services and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the divisions or the chief executive officer of the Department of Health and Human Services from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

Sec. 15. On July 1, 2007, all items of property, real and personal, including office furniture and fixtures, books, documents, and records of 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 pertaining to the duties and functions transferred to the Department of Health and Human Services pursuant to the Health and Human Services Act shall become the property of such department.

Sec. 16. Section 2-15,100, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

Sec. 17. Section 2-2626, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

(1) To administer, implement, and enforce the Pesticide Act and serve as the lead state agency for the regulation of pesticides. The

department shall involve the natural resources districts and other state agencies, including the Department of Environmental Quality, the Department of Natural Resources, or the Department of Health and Human Services, ~~Regulation and Licensure~~, in matters relating to water quality. Nothing in the act shall be interpreted in any way to affect the powers of any other state agency or of any natural resources district to regulate for ground water quality or surface water quality as otherwise provided by law;

(2) To be responsible for the development and implementation of a state management plan and pesticide management plans. The Department of Environmental Quality shall be responsible for the adoption of standards for pesticides in surface water and ground water, and the Department of Health and Human Services ~~Regulation and Licensure~~ shall be responsible for the adoption of standards for pesticides in drinking water. These standards shall be established as action levels in the state management plan and pesticide management plans at which prevention and mitigation measures are implemented. Such action levels may be set at or below the maximum contaminant level set for any product as set by the federal agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq., as the act existed on January 1, 2006. The ~~department~~ Department of Agriculture shall cooperate with and use existing expertise in other state agencies when developing the state management plan and pesticide management plans and shall not hire a hydrologist within the department for such purpose;

(3) After notice and public hearing, to adopt and promulgate rules and regulations providing lists of state-limited-use pesticides for the entire state or for a designated area within the state, subject to the following:

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

(i) The ~~department~~ Department of Agriculture determines that the pesticide, when used in accordance with its directions for use, warnings, and cautions and for uses for which it is registered, may without additional regulatory restrictions cause unreasonable adverse effects on humans or the environment, including injury to the applicator or other persons because of acute dermal or inhalation toxicity of the pesticides;

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

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

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

(i) With permission of the department;

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

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

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

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

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

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

(f) A pesticide management plan may impose progressively more rigorous pesticide management practices to address any unreasonable adverse effect of pesticides on humans or the environment. When appropriate, a pesticide management plan may establish action levels for imposition of such progressively more rigorous management practices based upon measurable indicators of the adverse effect on humans or the environment;

(4) To adopt and promulgate such rules and regulations as are necessary for the enforcement and administration of the Pesticide Act. The regulations shall include, but not be limited to, regulations providing for:

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

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

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

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

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

(f) Methods to be used in the application of pesticides when the ~~department~~ Department of Agriculture finds that such regulations are necessary to carry out the purpose and intent of the Pesticide Act. Such regulations may include methods to be used in the application of a restricted-use pesticide, may relate to the time, place, manner, methods, materials, amounts, and concentrations in connection with the use of the pesticide, may restrict or prohibit use of the pesticides in designated areas during specified periods of time, and may provide specific examples and technical interpretations of subdivision (4) of section 2-2646. The regulations shall encompass all reasonable factors which the department deems necessary to prevent damage or injury by drift or misapplication to (i) plants, including forage plants, or adjacent or nearby property, (ii) wildlife in the adjoining or nearby areas, (iii) fish and other aquatic life in waters in reasonable proximity to the area to be treated, (iv) surface water or ground water, and (v) humans, animals, or beneficial insects. In adopting and promulgating such regulations, the department shall give consideration to pertinent research findings and recommendations of other agencies of the state, the federal government, or other reliable sources. The department may, by regulation, require that notice of a proposed use of a pesticide be given to landowners whose property is adjacent to the property to be treated or in the immediate vicinity thereof if the department finds that such notice is necessary to carry out the purpose of the act;

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

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

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

(j) Establishment of categories for licensed pesticide applicators in addition to those established in 40 C.F.R. 171, as the regulation existed on January 1, 2006; and

(k) Establishment of a process for the issuance of permits for emergency-use pesticides made available under section 136p of the federal act;

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

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

(b) Inspect or sample any area exposed or reported to be exposed to a pesticide or where a pesticide use has occurred;

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

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

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

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

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

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



the right of the department to proceed as authorized by any other provision of the act;

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

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

(9) To impose or levy an administrative fine of not more than five thousand dollars on any person who has violated the provisions, requirements, conditions, limitations, or duties imposed by the act or rules and regulations adopted and promulgated pursuant to the act. A violation means any separate activity or day in which an activity takes place;

(10) To cause a violation warning letter to be served upon the alleged violator or violators pursuant to the act;

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

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

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

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

(15) To adopt classifications of restricted-use pesticides as determined by the federal agency under the federal act. In addition to the restricted-use pesticides classified by the administrator, the ~~department~~ Department of Agriculture may also determine state-limited-use pesticides for the state or for designated areas within the state as provided in subdivision (3) of this section;

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

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

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

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

(20) To issue a cease and desist order pursuant to section 2-2649;

(21) To deny an application or cancel, suspend, or modify the registration of a pesticide pursuant to section 2-2632;

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

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

Sec. 18. Section 2-3254, Revised Statutes Cumulative Supplement, 2006, is amended to read:

2-3254 (1) The board shall hold a hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the establishment of or altering the boundaries of an existing improvement project area and the undertaking of such a project, upon the question of the appropriate boundaries describing affected land, upon the propriety of the petition, and upon all relevant questions regarding such inquiries. When a hearing has been initiated by petition, such hearing shall be held within one hundred twenty days of the filing of such petition. Notice

of such hearing shall be published prior thereto once each week for three consecutive weeks in a legal newspaper published or of general circulation in the district. Landowners within the limits of the territory described in the petition and all other interested parties, including any appropriate agencies of state or federal government, shall have the right to be heard. If the board finds, after consultation with such appropriate agencies of state and federal government and after the hearing, that the project conforms with all applicable law and with the district's goals, criteria, and policies, it shall enter its findings in the board's official records and shall, with the aid of such engineers, surveyors, and other assistants as it may have chosen, establish an improvement project area or alter the boundaries of an existing improvement project area, proceed to make detailed plans and cost estimates, determine the total benefits, and carry out the project as provided in subsections (2) and (3) of this section. If the board finds that the project does not so conform, the findings shall be entered in the board's records and copies of such findings shall be furnished to the petitioners and the commission.

(2) When any such special project would result in the provision of revenue-producing continuing services, the board shall, prior to commencement of construction of such project, determine, by circulation of petitions or by some other appropriate method, if such project can be reasonably expected to generate sufficient revenue to recover the reimbursable costs thereof. If it is determined that the project cannot be reasonably expected to generate sufficient revenue, the project and all work in connection therewith shall be suspended. If it is determined that the project can be reasonably expected to generate sufficient revenue, the board shall divide the total benefits of the project as provided in sections 2-3252 to 2-3254. If the proposed project involves the supply of water for any beneficial use, all plans and specifications for the project shall be filed with the secretary of the district and the Director of Natural Resources, except that if such project involves a public water system as defined in section 71-5301, the filing of the information shall be with the Department of Health and Human Services ~~Regulation and Licensure~~ rather than the Director of Natural Resources. No construction of any such special project shall begin until the plans and specifications for such improvement have been approved by the Director of Natural Resources and the Department of Health and Human Services, ~~Regulation and Licensure~~, if applicable, except that if such special project involves a public water system as defined in section 71-5301, only the Department of Health and Human Services ~~Regulation and Licensure~~ shall be required to review such plans and specifications and approve the same if in compliance with the Nebraska Safe Drinking Water Act and departmental rules and regulations adopted and promulgated under the act. All prescribed conditions having been complied with, each landowner within the improvement project area shall, within any limits otherwise prescribed by law, subscribe to a number of benefit units in proportion to the extent he or she desires to participate in the benefits of the special project. As long as the capacity of the district's facilities permit, participating landowners may subscribe to additional units, within any limits otherwise prescribed by law, upon payment of a unit fee for each such unit. The unit fees made and charged pursuant to this section shall be levied and fixed by rules and regulations of the district. The service provided may be withheld during the time such charges levied upon such parcel of land are delinquent and unpaid. Such charges shall be cumulative, and the service provided by the project may be withheld until all delinquent charges for the operation and maintenance of such works of improvement are paid for past years as well as for the current year. All such charges, due and delinquent according to the rules and regulations of such district and unpaid on June 1 after becoming due and delinquent, may be certified by the governing authority of such district to the county clerk of such county in which are situated the lands against which such charges have been levied, and when so certified such charges shall be entered upon the tax list and spread upon the tax roll the same as other special assessment taxes are levied and assessed upon real estate, shall become a lien upon such real estate along with other real estate taxes, and shall be collectible at the same time, in the same manner, and in the same proceeding as other real estate taxes are levied.

(3) When the special project would not result in the provision of revenue-producing continuing services, the board shall apportion the benefits thereof accruing to the several tracts of land within the district which will be benefited thereby, on a system of units. The land least benefited shall be apportioned one unit of assessment, and each tract receiving a greater benefit shall be apportioned a greater number of units or fraction thereof, according to the benefits received. Nothing contained in this section shall prevent the district from establishing separate areas within the improvement project area

so as to permit future allocation of costs for particular portions of the work to specific subareas. This subarea method of allocation shall not be used in any improvement project area which has heretofore made a final apportionment of units of benefits and shall not thereafter be changed except by compliance with the procedure prescribed in this section.

(4) A notice shall be inserted for at least one week in a newspaper published or of general circulation in the improvement project area stating the time when and the place where the directors shall meet for the purpose of hearing all parties interested in the apportionment of benefits by reason of the improvement, at which time and place such parties may appear in person or by counsel or may file written objections thereto. The directors shall then proceed to hear and consider the same and shall make the apportionments fair and just according to benefits received from the improvement. The directors, having completed the apportionment of benefits, shall make a detailed report of the same and file such report with the county clerk. The board of directors shall include in such report a statement of the actual expenses incurred by the district to that time which relate to the proposed project and the actual cost per benefit unit thereof. Thereupon the board of directors shall cause to be published, once each week for three consecutive weeks in a newspaper published or of general circulation in the improvement project area, a notice that the report required in this subsection has been filed and notice shall also be sent to each party appearing to have a direct legal interest in such apportionment, which notice shall include the description of the lands in which each party notified appears to have such interest, the units of benefit assigned to such lands, the amount of actual costs assessable to date to such lands, and the estimated total costs of the project assessable to such lands upon completion thereof, as provided by sections 25-520.01 to 25-520.03. If the owners of record title representing more than fifty percent of the estimated total assessments file with the board within thirty days of the final publication of such notice written objections to the project proposed, such project and work in connection therewith shall be suspended, such project shall not be done in such project area, and all expenses relating to such project incurred by and accrued to the district may, at the direction of the board of directors, be assessed upon the lands which were to have been benefited by the completion of such improvement project in accordance with the apportionment of benefits determined and procedures established in this section. Upon completing the establishment of an improvement project area or altering the boundaries of an existing improvement project area as provided in this subsection and upon determining the reimbursable cost of the project and the period of time over which such cost shall be assessed, the board of directors shall determine the amount of money necessary to raise each year by special assessment within such improvement project area and apportion the same in dollars and cents to each tract benefited according to the apportionment of benefits as determined by this section. The board of directors shall also, from time to time as it deems necessary, order an additional assessment upon the lands and property benefited by the project, using the original apportionment of benefits as a basis to ascertain the assessment to each tract of land benefited, to carry out a reasonable program of operation and maintenance upon the construction or capital improvements involved in such project. The chairperson and secretary shall thereupon return lists of such tracts with the amounts chargeable to each of the county clerks of each county in which assessed lands are located, who shall place the same on duplicate tax lists against the lands and lots so assessed. Such assessments shall be collected and accounted for by the county treasurer at the same time as general real estate taxes, and such assessments shall be and remain a perpetual lien against such real estate until paid. All provisions of law for the sale, redemption, and foreclosure in ordinary tax matters shall apply to such special assessments.

Sec. 19. Section 2-3925, Reissue Revised Statutes of Nebraska, is amended to read:

2-3925 The dairy farm water supply shall be safe, clean, and ample for the cleaning of dairy utensils and equipment. The water supply shall meet the bacteriological standards established by the Department of Health and Human Services ~~Regulation and Licensure~~ at all times. Water samples shall be taken, analyzed, and found to be in compliance with the requirements of the Nebraska Manufacturing Milk Act prior to the issuance of a permit to the producer and whenever any major change to the well or water source occurs. Wells or water sources which do not meet the construction standards of the Department of Health and Human Services ~~Regulation and Licensure~~ shall be tested annually, and wells which do meet the construction standards of the Department of Health and Human Services ~~Regulation and Licensure~~ shall be tested every three years. Whenever major alterations or repairs occur or a

water source repeatedly recontaminates, the water supply shall be unacceptable until such time as the construction standards are met and an acceptable supply is demonstrated. On and after October 1, 1989, all new producers issued permits under the Nebraska Manufacturing Milk Act shall be required to meet the construction standards established by the Department of Health and Human Services ~~Regulation and Licensure~~ for private water supplies.

Sec. 20. Section 2-3928, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

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

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

(5) Steam shall be supplied in sufficient volume and pressure for satisfactory operation of each applicable piece of equipment. Culinary steam used in direct contact with milk or dairy products shall be free from harmful substances or extraneous material and only those boiler water additives approved by the department shall be used, or a secondary steam generator shall be used, in which soft water is converted to steam and no boiler compounds are used. Steam traps, strainers, and condensate traps shall be used wherever applicable to insure a satisfactory and safe steam supply. Culinary steam shall comply with the 3-A Accepted Practices for a Method of Producing Steam of Culinary Quality.

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

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

Sec. 21. Section 2-3932, Reissue Revised Statutes of Nebraska, is amended to read:

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

any disease in a communicable form or has become a carrier of such disease, shall notify the director immediately who shall immediately notify the local board of health or the Department of Health and Human Services, ~~Regulation and Licensure.~~

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

Sec. 22. Section 2-4901, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

(2) The committee shall meet at least twice each year and shall meet more frequently (a) at the call of the chairperson, (b) upon request of a majority of the committee members, and (c) during periods of drought or other severe climate situations.

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

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

Sec. 23. Section 13-1207, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 24. Section 23-1204.06, Revised Statutes Cumulative Supplement, 2006, is amended to read:

23-1204.06 A grant program is established to reimburse counties for the personal service costs of deputy county attorneys associated with termination of parental rights actions resulting from Laws 1998, LB 1041. Counties in which a city of the metropolitan class or a city of the primary class is located are eligible for grants under this program. The Department of Health and Human Services ~~Finance and Support~~ shall administer the program. Counties receiving grants shall submit quarterly expenditure reports to the department.

Sec. 25. Section 23-3595, Reissue Revised Statutes of Nebraska, is amended to read:

23-3595 All hospitals operated directly by an authority and not operated or leased as lessee by a nonprofit person, firm, partnership, limited liability company, association, or corporation shall be operated by the board of trustees of such authority according to the best interests of the public health, and the board of trustees shall make and enforce all rules, regulations, and bylaws necessary for the administration, government, protection, and maintenance of such hospitals and all property belonging thereto and may prescribe the terms upon which patients may be admitted thereto. Such hospitals shall not be required to contract with counties or

with agencies thereof to provide care for indigent county patients at below the cost for care. In fixing the basic room rates for such hospitals, the board of trustees shall establish such basic room rates as will, together with other income and revenue available for such purpose and however derived, permit each such hospital to be operated upon a self-supporting basis. In establishing basic room rates for such hospital, the board of trustees shall give due consideration to at least the following factors: Costs of administration, operation, and maintenance of such hospitals; the cost of making necessary repairs and renewals thereto; debt service requirements; the creation of reserves for contingencies; and projected needs for expansion and for the making of major improvements. Minimum standards of operation for such hospitals, at least equal to those set by the Department of Health and Human Services, ~~Regulation and Licensure~~, shall be established and enforced by the board of trustees.

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

Sec. 26. Section 28-322.04, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-322.04 (1) For purposes of this section:

(a) Person means an individual employed by the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, or the Department of Health and Human Services Finance and Support~~ and includes, but is not limited to, any individual working in central administration or regional service areas or facilities of the ~~departments~~ department and any individual to whom ~~one of the departments~~ the department has authorized or delegated control over a protected individual or a protected individual's activities, whether by contract or otherwise; and

(b) Protected individual means an individual in the care or custody of the ~~Department of Health and Human Services,~~ department.

(2) A person commits the offense of sexual abuse of a protected individual if the person subjects a protected individual to sexual penetration or sexual contact as those terms are defined in section 28-318. It is not a defense to a charge under this section that the protected individual consented to such sexual penetration or sexual contact.

(3) Any person who subjects a protected individual to sexual penetration is guilty of sexual abuse of a protected individual in the first degree. Sexual abuse of a protected individual in the first degree is a Class III felony.

(4) Any person who subjects a protected individual to sexual contact is guilty of sexual abuse of a protected individual in the second degree. Sexual abuse of a protected individual in the second degree is a Class IV felony.

Sec. 27. Section 28-326, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

(2) Hospital means those institutions licensed by the Department of Health and Human Services ~~Regulation and Licensure~~ pursuant to the Health Care Facility Licensure Act;

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

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

(5) Conception means the fecundation of the ovum by the spermatozoa;

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

(7) Emergency situation means that condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman as to necessitate the immediate abortion of her

pregnancy to avert her death or for which a delay will create serious risk of substantial impairment of a major bodily function;

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

(9) Partial-birth abortion means an abortion procedure in which the person performing the abortion partially delivers vaginally a living unborn child before killing the unborn child and completing the delivery. For purposes of this subdivision, the term partially delivers vaginally a living unborn child before killing the unborn child means deliberately and intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purpose of performing a procedure that the person performing such procedure knows will kill the unborn child and does kill the unborn child.

Sec. 28. Section 28-328, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-328 (1) No partial-birth abortion shall be performed in this state, unless such procedure is necessary to save the life of the mother whose life is endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself.

(2) The intentional and knowing performance of an unlawful partial-birth abortion in violation of subsection (1) of this section is a Class III felony.

(3) No woman upon whom an unlawful partial-birth abortion is performed shall be prosecuted under this section or for conspiracy to violate this section.

(4) The intentional and knowing performance of an unlawful partial-birth abortion shall result in the automatic suspension and revocation of an attending physician's license to practice medicine in Nebraska by the ~~Director of Regulation and Licensure~~ Division of Public Health pursuant to sections 71-147 to 71-161.20.

(5) Upon the filing of criminal charges under this section by the Attorney General or a county attorney, the Attorney General shall also file a petition to suspend and revoke the attending physician's license to practice medicine pursuant to section 71-150. A hearing on such administrative petition shall be set in accordance with section 71-153. At such hearing, the attending physician shall have the opportunity to present evidence that the physician's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself. A defendant against whom criminal charges are brought under this section may bring a motion to delay the beginning of the trial until after the entry of an order by the ~~Director of Regulation and Licensure~~ Director of Public Health pursuant to section 71-155. The findings of the ~~Director of Regulation and Licensure~~ director as to whether the attending physician's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, shall be admissible in the criminal proceedings brought pursuant to this section.

Sec. 29. Section 28-343, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

section 71-602.

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

Sec. 30. Section 28-345, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-345 The Department of Health and Human Services ~~Finance and Support~~ shall prepare and keep on permanent file compilations of the information submitted on the abortion reporting forms pursuant to such rules and regulations as established by the ~~Department of Health and Human Services Finance and Support~~, department, which compilations shall be a matter of public record. Under no circumstances shall the compilations of information include the name of any attending physician or identify in any respect facilities where abortions are performed. The ~~Department of Health and Human Services Finance and Support~~, department, in order to maintain and keep such compilations current, shall file with such reports any new or amended information.

Sec. 31. Section 28-356, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-356 Department shall mean the Department of Health and Human Services. ~~Finance and Support.~~

Sec. 32. Section 28-372, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

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

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

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

Sec. 33. Section 28-377, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-377 Except as otherwise provided in sections 28-376 to 28-380, no person, official, or agency shall have access to the records relating to abuse unless in furtherance of purposes directly connected with the administration of the Adult Protective Services Act and section 28-726. Persons, officials,



and agencies having access to such records shall include, but not be limited to:

- (1) A law enforcement agency investigating a report of known or suspected abuse;
- (2) A county attorney in preparation of an abuse petition;
- (3) A physician who has before him or her a person whom he or she reasonably suspects may be abused;
- (4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused vulnerable adult;
- (5) Defense counsel in preparation of the defense of a person charged with abuse;
- (6) Any person engaged in bona fide research or auditing, except that no information identifying the subjects of the report shall be made available to the researcher or auditor. The researcher shall be charged for any costs of such research incurred by the department at a rate established by rules and regulations adopted and promulgated by the department;
- (7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000, as the act existed on September 1, 2001, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed on September 1, 2001, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness; and
- (8) For purposes of licensing providers of child care programs, the ~~Department of Health and Human Services Regulation and Licensure~~, department.

Sec. 34. Section 28-380, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

Sec. 35. Section 28-401, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

- (1) Administer shall mean to directly apply a controlled substance by injection, inhalation, ingestion, or any other means to the body of a patient or research subject;
- (2) Agent shall mean an authorized person who acts on behalf of or at the direction of another person but shall not include a common or contract carrier, public warehouse keeper, or employee of a carrier or warehouse keeper;
- (3) Administration shall mean the Drug Enforcement Administration, United States Department of Justice;
- (4) Controlled substance shall mean a drug, biological, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2003, and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance shall mean a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device,

or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

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

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

(8) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject pursuant to a medical order issued by a practitioner authorized to prescribe, including the packaging, labeling, or compounding necessary to prepare the controlled substance for such delivery;

(9) Distribute shall mean to deliver other than by administering or dispensing a controlled substance;

(10) Prescribe shall mean to issue a medical order;

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

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

(13) Marijuana shall mean all parts of the plant of the genus cannabis, whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds, but shall not include the mature stalks of such plant, hashish, tetrahydrocannabinols extracted or isolated from the plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks, or the sterilized seed of such plant which is incapable of germination. When the weight of marijuana is referred to in the Uniform Controlled Substances Act, it shall mean its weight at or about the time it is seized or otherwise comes into the possession of law enforcement authorities, whether cured or uncured at that time;

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

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

(16) Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. Opiate shall not include the dextrorotatory isomer of 3-methoxy-n

methylmorphinan and its salts. Opiate shall include its racemic and levorotatory forms;

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

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

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

(20) Practitioner shall mean a physician, a physician assistant, a dentist, a veterinarian, a pharmacist, a podiatrist, an optometrist, a certified nurse midwife, a certified registered nurse anesthetist, a nurse practitioner, a scientific investigator, a pharmacy, a hospital, or any other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of practice or research in this state, including an emergency medical service as defined in section 71-5175;

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

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

(23) State shall mean the State of Nebraska;

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

(25) Hospital shall have the same meaning as in section 71-419;

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

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

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

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

(30) (a) Controlled substance analogue shall mean a substance (i) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (ii) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of the Uniform Controlled Substances Act; and

(b) Controlled substance analogue shall not include (i) a controlled substance, (ii) any substance generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., as such act existed on January 1, 2003, (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, as such section existed on January 1, 2003, to the extent conduct with respect to such substance is pursuant to such exemption;

(31) Anabolic steroid shall mean any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than

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

(32) Chart order shall mean an order for a controlled substance issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412. Chart order shall not include a prescription;

(33) Medical order shall mean a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(34) Prescription shall mean an order for a controlled substance issued by a practitioner. Prescription shall not include a chart order;

(35) Registrant shall mean any person who has a controlled substances registration issued by the state or the administration;

(36) Reverse distributor shall mean a person whose primary function is to act as an agent for a pharmacy, wholesaler, manufacturer, or other entity by receiving, inventorying, and managing the disposition of outdated, expired, or otherwise nonsaleable controlled substances;

(37) Signature shall mean the name, word, or mark of a person written in his or her own hand with the intent to authenticate a writing or other form of communication or a digital signature which complies with section 86-611 or an electronic signature;

(38) Facsimile shall mean a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and reconstructs the signals to create an exact duplicate of the original document at the receiving end;

(39) Electronic signature shall have the definition found in section 86-621; and

(40) Electronic transmission shall mean transmission of information in electronic form. Electronic transmission may include computer-to-computer transmission or computer-to-facsimile transmission.

Sec. 36. Section 28-456, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-456 (1) Any drug products containing phenylpropanolamine, pseudoephedrine, or their salts, optical isomers, or salts of such optical isomers may be sold without a prescription only if they are:

(a) Labeled and marketed in a manner consistent with the pertinent OTC Tentative Final or Final Monograph;

(b) Manufactured and distributed for legitimate medicinal use in a manner that reduces or eliminates the likelihood of abuse;

(c) Packaged as follows:

(i) Except for liquids, sold in package sizes of not more than one thousand four hundred forty milligrams of pseudoephedrine base or one thousand four hundred forty milligrams of phenylpropanolamine base, in blister packs, each blister containing not more than two dosage units, or if the use of blister packs is technically infeasible, in unit dose packets or pouches; and

(ii) For liquids, sold in package sizes of not more than one thousand four hundred forty milligrams of pseudoephedrine base or one thousand four hundred forty milligrams of phenylpropanolamine base;

(d) Sold by a person, eighteen years of age or older, in the course of his or her employment to a customer, eighteen years of age or older, with the following restrictions:

(i) No customer shall be allowed to purchase, receive, or otherwise acquire more than one thousand four hundred forty milligrams of pseudoephedrine base or one thousand four hundred forty milligrams of phenylpropanolamine base during a twenty-four-hour period; and

(ii) The customer shall display a valid driver's or operator's license, a Nebraska state identification card, a military identification card, an alien registration card, or a passport as proof of identification; and

(e) Stored behind a counter, in an area not accessible to customers, or in a locked case so that a customer needs assistance from an employee to access the drug product, except that this requirement does not apply to liquid pediatric formulations. For the purposes of this subdivision, liquid pediatric formulation means a liquid formulation with pseudoephedrine doses of fifteen milligrams or less that is manufactured and marketed for children twelve years of age or younger. If it is documented by a law enforcement agency to the

Nebraska State Patrol that a liquid pediatric formulation has been found at a methamphetamine manufacturing site, the patrol shall present the documentation to the chief medical officer, as described in section ~~81-3201~~, 6 of this act, who shall issue an order removing the exemption.

(2) Any person who sells drug products in violation of this section may be subject to a civil penalty of fifty dollars per day, and for a second or any subsequent violation, the penalty may be one hundred dollars per day. Any such drug products shall be seized and destroyed upon the finding of a violation of this section. The department, in conjunction with the Attorney General, the Nebraska State Patrol, and local law enforcement agencies, shall have authority to make inspections and investigations to enforce this section. In addition, the department may seek injunctive relief for suspected violations of this section.

Sec. 37. Section 28-713, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-713 Upon the receipt of a call reporting child abuse and neglect as required by section 28-711:

(1) It is the duty of the law enforcement agency to investigate the report, to take immediate steps to protect the child, and to institute legal proceedings if appropriate. In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the law enforcement agency shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect. The law enforcement agency may request assistance from the ~~Department of Health and Human Services~~ department during the investigation and shall, by the next working day, notify either the hotline or the department of receipt of the report, including whether or not an investigation is being undertaken by the law enforcement agency. A copy of all reports, whether or not an investigation is being undertaken, shall be provided to the department;

(2) In situations of alleged out-of-home child abuse or neglect if the person or persons to be notified have not already been notified and the person to be notified is not the subject of the report of child abuse or neglect, the department shall immediately notify the person or persons having custody of each child who has allegedly been abused or neglected that such report of alleged child abuse or neglect has been made and shall provide such person or persons with information of the nature of the alleged child abuse or neglect and any other information that the department deems necessary. The department shall investigate for the purpose of assessing each report of child abuse or neglect to determine the risk of harm to the child involved. The department shall also provide such social services as are necessary and appropriate under the circumstances to protect and assist the child and to preserve the family;

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

(4) The department shall, by the next working day after receiving a report of child abuse or neglect under subdivision (1) of this section, make a written report or a summary on forms provided by the department to the proper law enforcement agency in the county and enter in the tracking system of child protection cases maintained pursuant to section 28-715 all reports of child abuse or neglect opened for investigation and any action taken; and

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

Sec. 38. Section 28-721, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-721 At any time, the department may amend, expunge, or remove from the central register of child protection cases maintained pursuant to section 28-718 any record upon good cause shown and upon notice to the subject of the report of child abuse or neglect, ~~and to the division.~~

Sec. 39. Section 28-726, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-726 Except as provided in this section and sections 28-722 and 28-734 to 28-739, no person, official, or agency shall have access to information in the tracking system of child protection cases maintained pursuant to section 28-715 or in records in the central register of child protection cases maintained pursuant to section 28-718 unless in furtherance of purposes directly connected with the administration of the Child Protection

Act. Such persons, officials, and agencies having access to such information shall include, but not be limited to:

- (1) A law enforcement agency investigating a report of known or suspected child abuse or neglect;
- (2) A county attorney in preparation of a child abuse or neglect petition or termination of parental rights petition;
- (3) A physician who has before him or her a child whom he or she reasonably suspects may be abused or neglected;
- (4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused or neglected child or a parent, a guardian, or other person responsible for the abused or neglected child's welfare who is the subject of the report of child abuse or neglect;
- (5) Any person engaged in bona fide research or auditing. No information identifying the subjects of the report of child abuse or neglect shall be made available to the researcher or auditor;
- (6) The State Foster Care Review Board when the information relates to a child in a foster care placement as defined in section 43-1301. The information provided to the state board shall not include the name or identity of any person making a report of suspected child abuse or neglect;
- (7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act existed on January 1, 2005, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed on September 1, 2001, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness;
- (8) The person or persons having custody of the abused or neglected child in situations of alleged out-of-home child abuse or neglect; and
- (9) For purposes of licensing providers of child care programs, the Department of Health and Human Services, ~~Regulation and Licensure-~~

Sec. 40. Section 28-728, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

(2) Each county or contiguous group of counties will be assigned by the Department of Health and Human Services to a child advocacy center. The purpose of a child advocacy center is to provide a child-focused response to support the physical, emotional, and psychological needs of children who are victims of abuse or neglect. Each child advocacy center shall meet accreditation criteria set forth by the National Children's Alliance. Nothing in this section shall prevent a child from receiving treatment or other services at a child advocacy center which has received or is in the process of receiving accreditation.

(3) Each county attorney or the county attorney representing a contiguous group of counties is responsible for convening the child abuse and neglect investigation team and ensuring that protocols are established and implemented. A representative of the child advocacy center assigned to the team shall assist the county attorney in facilitating case review, developing and updating protocols, and arranging training opportunities for the team. Each team must have protocols which, at a minimum, shall include procedures for:

- (a) Conducting joint investigations of child abuse and other child abuse and neglect matters which the team deems necessary;
- (b) Ensuring that a law enforcement agency will participate in the investigation;
- (c) Conducting joint investigations of other child abuse and neglect matters which the team deems necessary;
- (d) Arranging for a videotaped forensic interview at a child advocacy center for children sixteen years of age or younger who are alleging sexual abuse or serious physical abuse or neglect or who have witnessed a violent crime, been removed from a clandestine drug lab, or been recovered from a kidnapping;
- (e) Reducing the risk of harm to child abuse and neglect victims;
- (f) Ensuring that the child is in safe surroundings, including removing the perpetrator when necessary;
- (g) Sharing of case information;
- (h) How and when the team will meet; and

(i) Responding to drug-endangered children.

(4) Each county attorney or the county attorney representing a contiguous group of counties is responsible for convening the child abuse and neglect treatment team and ensuring that protocols are established and implemented. A representative of the child advocacy center appointed to the team shall assist the county attorney in facilitating case review, developing and updating protocols, and arranging training opportunities for the team. Each team must have protocols which, at a minimum, shall include procedures for:

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

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

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

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

(e) How and when the team will meet; and

(f) Working with multiproblem delinquent youth.

Sec. 41. Section 28-734, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-734 For purposes of sections 28-734 to 28-739:

(1) Child fatality means the death of a child from suspected abuse, neglect, or maltreatment as determined by the county coroner or county attorney;

(2) Department means the Department of Health and Human Services;

~~(3) Findings and information means a written summary as described in section 28-736; and~~

~~(4) Near fatality means a case in which an examining physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.~~

Sec. 42. Section 28-735, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-735 Notwithstanding any other provision of law and subject to sections 28-734 to 28-739, the ~~Department of Health and Human Services department~~ shall disclose to the public, upon request, a summary of the findings and information related to a child fatality or near fatality if:

(1) A person is criminally charged with having caused the child fatality or near fatality and is convicted or acquitted of the charged offense or a lesser offense; or

(2) A county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person's prior death.

Sec. 43. Section 28-736, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-736 Findings and information disclosed pursuant to section 28-735 shall consist of a written summary that includes any of the following information the ~~Department of Health and Human Services department~~ is able to provide:

(1) The dates, outcomes, and results of any actions taken or services rendered by the department; and

(2) Confirmation of the receipt of all reports, accepted or not accepted, by the local office of the ~~Department of Health and Human Services department~~ for assessment of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of the basis for the department's determination.

This section does not authorize access to confidential records in the custody of the department or disclosure to the public of the records or the content of any psychiatric, psychological, or therapeutic evaluations or of information that would reveal the identities of persons who provided information related to suspected child abuse, neglect, or maltreatment.

Sec. 44. Section 28-737, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-737 Within five working days after receipt of a request for a summary of the findings and information related to a child fatality or near fatality, the ~~Department of Health and Human Services department~~ shall consult with the appropriate county attorney and provide the findings and information unless the department or county attorney has reasonable cause to believe that the release of the information:

(1) Is not authorized by section 28-735;

(2) Is likely to cause mental, emotional, or physical harm or danger

to a minor child residing in the household of the deceased or injured child or who is the sibling of the deceased or injured child;

(3) Is the subject of an ongoing or future criminal investigation or prosecution;

(4) Is not authorized by federal law and regulations; or

(5) Could result in physical or emotional harm to an individual.

Sec. 45. Section 28-738, Revised Statutes Cumulative Supplement, 2006, is amended to read:

28-738 A person whose request under section 28-737 is denied may apply to the district court of Lancaster County for an order compelling disclosure of a summary of the findings and information by the ~~Department of Health and Human Services~~, department. The application shall set forth with reasonable particularity factors supporting the application. Actions under this section shall be set for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the appellate courts. After the district court has reviewed the specific findings and information in camera, the court shall issue an order compelling disclosure unless the court finds that one or more of the circumstances set out in section 28-737 exist.

Sec. 46. Section 29-2928, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

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

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

Sec. 47. Section 29-2929, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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



records as requested by the Department of Correctional Services.

(3) All days of confinement in a treatment program operated by the Department of Health and Human Services shall be credited to the offender's term of imprisonment.

Sec. 48. Section 29-4125, Revised Statutes Cumulative Supplement, 2006, is amended to read:

29-4125 (1) Notwithstanding any other provision of law and subject to subsection (2) or (4) of this section, state agencies and political subdivisions shall preserve any biological material secured in connection with a criminal case for such period of time as any person remains incarcerated in connection with that case.

(2) State agencies or political subdivisions that have secured biological material for use in criminal cases may dispose of biological material before expiration of the period of time specified in subsection (1) of this section if:

(a) The state agency or political subdivision which secured the biological material for use in a criminal case notifies any person who remains incarcerated in connection with the case, such person's counsel of record, or if there is no counsel of record, the public defender, if applicable, in the county in which the judgment of conviction of such person was entered. The notice shall include:

(i) The intention of the state agency or political subdivision to dispose of the material after ninety days after receipt of the notice; and

(ii) The provisions of the DNA Testing Act;

(b) The person, such person's counsel of record, or the public defender does not file a motion under section 29-4120 within ninety days after receipt of notice under this section; and

(c) No other provision of law or court order requires that such biological material be preserved.

(3) The person, such person's counsel of record, or the public defender who receives notice under subdivision (2)(a) of this section, may, in lieu of a motion under section 29-4120, request in writing to take possession of the biological material for the purpose of having the material available for any future discovery of scientific or forensic techniques. Copies of any such written request shall be provided to both the court and to the county attorney. The costs of acquisition, preservation, and storage of any such material shall be at the expense of the person.

(4) The Department of Health and Human Services ~~Regulation and Licensure~~ shall preserve biological material obtained for the purpose of determining the concentration of alcohol in a person's blood for two years unless a request is made for the retention of such material beyond such period in connection with a pending legal action.

Sec. 49. Section 30-2487, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

(1) Costs and expenses of administration;

(2) Reasonable funeral expenses;

(3) Debts and taxes with preference under federal law;

(4) Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent and claims filed by the Department of Health and Human Services ~~Finance and Support~~ pursuant to section 68-919;

(5) Debts and taxes with preference under other laws of this state;

(6) All other claims.

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

Sec. 50. Section 31-740, Reissue Revised Statutes of Nebraska, is amended to read:

31-740 (1) The board of trustees or the administrator of any district organized under sections 31-727 to 31-762 shall have power to provide for establishing, maintaining, and constructing gas and electric service lines and conduits, an emergency management warning system, water mains, sewers, and disposal plants and disposing of drainage, waste, and sewage of such district in a satisfactory manner; for establishing, maintaining, and constructing sidewalks, public roads, streets, and highways, including grading, changing grade, paving, repaving, graveling, regravelling, widening, or narrowing roads, resurfacing or relaying existing pavement, or otherwise improving any road, street, or highway within the district, including protecting existing sidewalks, streets, highways, and roads from floods or erosion which has

moved within fifteen feet from the edge of such sidewalks, streets, highways, or roads, regardless of whether such flooding or erosion is of natural or artificial origin; for establishing, maintaining, and constructing public waterways, docks, or wharfs, and related appurtenances; and for constructing and contracting for the construction of dikes and levees for flood protection for the district.

(2) The board of trustees or the administrator of any district may contract for electricity for street lighting for the public streets and highways within the district and shall have power to provide for building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities, and, when permitted by section 31-727, for contracting with other sanitary and improvement districts for the building, acquisition, improvement, maintenance, and operation of public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting districts, and for contracting for any public purpose specifically authorized in this section. Power to construct clubhouses and similar facilities for the giving of private parties within the zoning jurisdiction of any city or village is not included in the powers granted in this section. Any sewer system established shall be approved by the Department of Health and Human Services. ~~Regulation and Licensure.~~

(3) Prior to the installation of any of the improvements or services provided for in this section, the plans or contracts for such improvements or services, other than for public parks, playgrounds, and recreational facilities, whether a district acts separately or jointly with other districts as permitted by section 31-727, shall be approved by the public works department of any municipality when such improvements or any part thereof or services are within the area of the zoning jurisdiction of such municipality. If such improvements or services are without the area of the zoning jurisdiction of any municipality, plans for such improvements shall be approved by the county board of the county in which such improvements are located. Plans and exact costs for public parks, playgrounds, and recreational facilities shall be approved by resolution of the governing body of such municipality or county after a public hearing. Purchases of public parks, playgrounds, and recreational facilities so approved may be completed and shall be valid notwithstanding any interest of any trustee of the district in the transaction. Such approval shall relate to conformity with the master plan and the construction specifications and standards established by such municipality or county. When no master plan and construction specifications and standards have been established, such approval shall not be required. When such improvements are within the area of the zoning jurisdiction of more than one municipality, such approval shall be required only from the most populous municipality, except that when such improvements are furnished to the district by contract with a particular municipality, the necessary approval shall in all cases be given by such municipality. The municipality or county shall be required to approve plans for such improvements and shall enforce compliance with such plans by action in equity.

(4) The district may construct its sewage disposal plant and other sewerage or water improvements, or both, in whole or in part, inside or outside the boundaries of the district and may contract with corporations or municipalities for disposal of sewage and use of existing sewerage improvements and for a supply of water for fire protection and for resale to residents of the district. It may also contract with any corporation, public power district, electric membership or cooperative association, or municipality for the installation, maintenance, and cost of operating a system of street lighting upon the public streets and highways within the district, for installation, maintenance, and operation of a water system, or for the installation, maintenance, and operation of electric service lines and conduits, and to provide water service for fire protection and use by the residents of the district. It may also contract with any corporation, municipality, or other sanitary and improvement district, as permitted by section 31-727, for building, acquiring, improving, and operating public parks, playgrounds, and recreational facilities for the joint use of the residents of the contracting parties. It may also contract with a county within which all or a portion of such sanitary and improvement district is located or a city within whose zoning jurisdiction the sanitary and improvement district is located for intersection and traffic control improvements, which improvements serve or benefit the district and which may be within or without the corporate boundaries of the district, and for any public purpose specifically authorized in this section.

(5) Each sanitary and improvement district shall have the books of account kept by the board of trustees of the district examined and audited by a certified public accountant or a public accountant for the year ending June

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

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

(7) Whenever the sanitary sewer system or any part thereof of a sanitary and improvement district is directly or indirectly connected to the sewerage system of any city, such city, without enacting an ordinance or adopting any resolution for such purpose, may collect such city's applicable rental or use charge from the users in the sanitary and improvement district and from the owners of the property served within the sanitary and improvement district. The charges of such city shall be charged to each property served by the city sewerage system, shall be a lien upon the property served, and may be collected from the owner or the person, firm, or corporation using the service. If the city's applicable rental or service charge is not paid when due, such sum may be recovered by the municipality in a civil action or it may be assessed against the premises served in the same manner as special taxes or assessments are assessed by such city and collected and returned in the same manner as other municipal special taxes or assessments are enforced and collected. When any such tax or assessment is levied, it shall be the duty of the city clerk to deliver a certified copy of the ordinance to the county treasurer of the county in which the premises assessed are located and such county treasurer shall collect the same as provided by law and return the same to the city treasurer. Funds of such city raised from such charges shall be used by it in accordance with laws applicable to its sewer service rental or charges. The governing body of any city may make all necessary rules and regulations governing the direct or indirect use of its sewerage system by any user and premises within any sanitary and improvement district and may establish just and equitable rates or charges to be paid to such city for use of any of its disposal plants and sewerage system. The board of trustees shall have power, in connection with the issuance of any warrants or bonds of the district, to agree to make a specified minimum levy on taxable property in the district to pay, or to provide a sinking fund to pay, principal and interest on warrants and bonds of the district for such number of years as the board may establish at the time of making such agreement and shall also have power to agree to enforce, by foreclosure or otherwise as permitted by applicable laws, the collection of special assessments levied by the district. Such agreements may contain provisions granting to creditors and others the right to enforce and carry out the agreements on behalf of the district and its creditors.

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

administrator may reject such bids and negotiate a sale at a price higher than the highest bid at the public auction at such terms as may be agreed.

Sec. 51. Section 32-310, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

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

(4) The applicant may return the completed voter registration application to the department, agent, or contractor or may personally mail or deliver the application to the election commissioner or county clerk as provided in section 32-321. If the applicant returns the completed application to the department, agent, or contractor, the department, agent, or contractor shall deliver the application to the election commissioner or county clerk of the county in which the office of the department, agent, or contractor is located not later than ten days after receipt by the department, agent, or contractor, except that if the application is returned to the department, agent, or contractor within five days prior to the third Friday preceding any election, it shall be delivered not later than five days after the date it is returned. The election commissioner or county clerk shall, if necessary, forward the application to the election commissioner or county clerk of the county in which the applicant resides within such prescribed time limits. The application shall be completed and returned to the department, agency, or contractor by the close of business on the third Friday preceding any election to be registered to vote at such election. A registration application received after the deadline shall not be processed by the election commissioner or county clerk until after the election.

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

Sec. 52. Section 32-327, Reissue Revised Statutes of Nebraska, is amended to read:

32-327 The election commissioner or county clerk may at any time remove from the voter registration register a voter registration of a deceased person when the election commissioner or county clerk has any supporting information of the death of such voter. The Department of Health and Human Services ~~Finance and Support~~ shall provide, at cost, a record of the deaths of residents which occur in each county every three months to the appropriate election commissioner or county clerk.

Sec. 53. Section 37-1254.05, Reissue Revised Statutes of Nebraska, is amended to read:

37-1254.05 Except as provided in section 37-1254.03, any test made pursuant to section 37-1254.02, if made in conformance with the requirements of this section, shall be competent evidence in any prosecution under a state law or city or village ordinance regarding the actual physical control of any motorboat under propulsion upon the waters of this state while under the influence of alcohol or regarding the actual physical control of any motorboat under propulsion upon the waters of this state when the concentration of alcohol in the blood or breath is in excess of allowable levels in violation of section 37-1254.01 or a city or village ordinance. To be considered valid, tests shall have been performed according to methods approved by the Department of Health and Human Services ~~Regulation and Licensure~~ and

by an individual possessing a valid permit issued by the department for such purpose. The department may approve satisfactory techniques or methods and ascertain the qualifications and competence of individuals to perform such tests and may issue permits which shall be subject to termination or revocation at the discretion of the department.

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

Sec. 54. Section 37-1254.06, Reissue Revised Statutes of Nebraska, is amended to read:

37-1254.06 (1) Any physician, registered nurse, other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act, a clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act, as amended, to withdraw human blood for scientific or medical purposes, or a hospital shall be an agent of the State of Nebraska when performing the act of withdrawing blood at the request of a peace officer pursuant to section 37-1254.02. The state shall be liable in damages for any illegal or negligent acts or omissions of such agents in performing the act of withdrawing blood. The agent shall not be individually liable in damages or otherwise for any act done or omitted in performing the act of withdrawing blood at the request of a peace officer pursuant to such section except for acts of willful, wanton, or gross negligence of the agent or of persons employed by such agent.

(2) Any person listed in subsection (1) of this section withdrawing a blood specimen for purposes of section 37-1254.02 shall, upon request, furnish to any law enforcement agency or the person being tested a certificate stating that such specimen was taken in a medically acceptable manner. The certificate shall be signed under oath before a notary public and shall be admissible in any proceeding as evidence of the statements contained in the certificate. The form of the certificate shall be prescribed by the Department of Health and Human Services ~~Regulation and Licensure~~ and such forms shall be made available to the persons listed in subsection (1) of this section.

Sec. 55. Section 42-106, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

Sec. 56. Section 42-358, Revised Statutes Cumulative Supplement, 2006, is amended to read:

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

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

(3) The clerk of each district court shall maintain records of support orders. The Title IV-D Division of the Department of Health and Human Services shall maintain support order payment records pursuant to section 43-3342.01 and the clerk of each district court shall maintain records of payments received pursuant to sections 42-369 and 43-3342.01. For support orders in all cases issued before September 6, 1991, and for support orders

issued or modified on or after September 6, 1991, in cases in which no party has applied for services under Title IV-D of the federal Social Security Act, as amended, each month the Title IV-D Division shall certify all cases in which the support order payment is delinquent in an amount equal to the support due and payable for a one-month period of time. The Title IV-D Division shall provide the case information in electronic format, and upon request in print format, to the judge presiding over domestic relations cases and to the county attorney or authorized attorney. A rebuttable presumption of contempt shall be established if a prima facie showing is made that the court-ordered child or spousal support is delinquent. In cases in which one of the parties receives services under Title IV-D of the federal Social Security Act, as amended, the Title IV-D Division shall certify all such delinquent support order payments to the county attorney or the authorized attorney.

In each case certified, if income withholding has not been implemented it shall be implemented pursuant to the Income Withholding for Child Support Act. If income withholding is not feasible and no other action is pending for the collection of support payments, the court shall appoint an attorney to commence contempt of court proceedings. If the county attorney or authorized attorney consents, he or she may be appointed for such purpose. The contempt proceeding shall be instituted within ten days following appointment, and the case shall be diligently prosecuted to completion. The court shall by order fix the fee, including disbursements, for such attorney, which amount shall be taxed as costs and paid by the parties as ordered. Any fees allowed for the services of any county attorney or authorized attorney shall be paid to the Department of Health and Human Services when there is an assignment of support to the department pursuant to section 43-512.07 or when an application for child support services is on file with a county attorney or authorized attorney. If the court finds the party responsible is indigent, the court may order the county to pay the costs.

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

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

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

Sec. 57. Section 42-358.01, Reissue Revised Statutes of Nebraska, is amended to read:

42-358.01 Records of delinquencies in support order payments shall be kept by the Title IV-D Division of the Department of Health and Human Services or by the clerks of the district courts pursuant to their responsibilities under law.

Sec. 58. Section 42-358.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

42-358.02 (1) All delinquent child support payments shall draw interest at the rate specified in section 45-103 in effect on the date of the most recent order or decree. Such interest shall be computed as simple interest.

(2) All child support payments shall become delinquent the day after they are due and owing, except that no obligor whose child support payments are automatically withheld from his or her paycheck shall be regarded or reported as being delinquent or in arrears if (a) any delinquency or arrearage is solely caused by a disparity between the schedule of the obligor's regular pay dates and the scheduled date the child support is due, (b) the total amount of child support to be withheld from the paychecks of the obligor and the amount ordered by the support order are the same on an annual basis, and (c) the automatic deductions for child support are continuous and occurring. Interest shall not accrue until thirty days after such payments are delinquent.

(3) The court shall order the determination of the amount of interest due, and such interest shall be payable in the same manner as the support payments upon which the interest accrues subject to subsection (2) of this section or unless it is waived by agreement of the parties. The Title IV-D Division of the Department of Health and Human Services shall compute interest and identify delinquencies pursuant to this section on the payments

received by the State Disbursement Unit pursuant to section 42-369. The Title IV-D Division shall provide the case information in electronic format, and upon request in print format, to the judge presiding over domestic relations cases and to the county attorney or authorized attorney.

(4) Support order payments shall be credited in the following manner:

(a) First, to the payments due for the current month in the following order: Child support payments, then spousal support payments, and lastly medical support payments;

(b) Second, toward any payment arrearage owing, in the following order: Child support payment arrearage, then spousal support payment arrearage, and lastly medical support payment arrearage; and

(c) Third, toward the interest on any payment arrearage, in the following order: Child support payment arrearage interest, then spousal support payment arrearage interest, and lastly medical support payment arrearage interest.

(5) Interest which may have accrued prior to September 6, 1991, shall not be affected or altered by changes to this section which take effect on such date. All delinquent child support payments and all decrees entered prior to such date shall draw interest at the effective rate as prescribed by this section commencing as of such date.

Sec. 59. Section 42-364.13, Revised Statutes Cumulative Supplement, 2006, is amended to read:

42-364.13 (1) Any order for support entered by the court shall specifically provide that any person ordered to pay a judgment shall be required to furnish to the clerk of the district court his or her address, telephone number, and social security number, the name of his or her employer, whether or not such person has access to employer-related health insurance coverage and, if so, the health insurance policy information, and any other information the court deems relevant until such judgment is paid in full. The person shall also be required to advise the clerk of any changes in such information between the time of entry of the decree and the payment of the judgment in full. If both parents are parties to the action, such order shall provide that each be required to furnish to the clerk of the district court all of the information required by this subsection. Failure to comply with this section shall be punishable by contempt.

(2) All support orders entered by the court shall include the birthdate of any child for whom the order requires the provision of support.

(3) Until the Title IV-D Division of the Department of Health and Human Services has operative the statewide automated data processing and retrieval system necessary for centralized collection and disbursement of support order payments:

(a) If any case contains an order or judgment for child, medical, or spousal support, the order shall include the following statements:

In the event that the (plaintiff or defendant) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the district court clerk in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she shall be subject to income withholding and may be required to appear in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (plaintiff or defendant) fails to pay and appear as ordered, a warrant shall be issued for his or her arrest.

(b) If the court orders income withholding regardless of whether or not payments are in arrears pursuant to section 43-1718.01 or 43-1718.02, the statement in this subsection may be altered to read as follows:

In the event that the (plaintiff or defendant) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the district court clerk in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she may be required to appear in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (plaintiff or defendant) fails to pay and appear as ordered, a warrant shall be issued for his or her arrest.

(4) When the Title IV-D Division of the Department of Health and Human Services has operative the statewide automated data processing and retrieval system necessary for centralized collection and disbursement of support order payments:

(a) If any case contains an order or judgment for child, medical, or spousal support, the order shall include the following statements:

In the event that the (plaintiff or defendant) fails to pay any child, medical, or spousal support payment, as such failure is certified

each month by the State Disbursement Unit in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she shall be subject to income withholding and may be required to appear in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (plaintiff or defendant) fails to pay and appear as ordered, a warrant shall be issued for his or her arrest.

(b) If the court orders income withholding regardless of whether or not payments are in arrears pursuant to section 43-1718.01 or 43-1718.02, the statement in this subsection may be altered to read as follows:

In the event that the (plaintiff or defendant) fails to pay any child, medical, or spousal support payment, as such failure is certified each month by the State Disbursement Unit in cases in which court-ordered support is delinquent in an amount equal to the support due and payable for a one-month period of time, he or she may be required to appear in court on a date to be determined by the court and show cause why such payment was not made. In the event that the (plaintiff or defendant) fails to pay and appear as ordered, a warrant shall be issued for his or her arrest.

Sec. 60. Section 42-705, Reissue Revised Statutes of Nebraska, is amended to read:

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

- (1) The individual is personally served with notice within this state;
- (2) The individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) The individual resided with the child in this state;
- (4) The individual resided in this state and provided prenatal expenses or support for the child;
- (5) The child resides in this state as a result of the acts or directives of the individual;
- (6) The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse;
- (7) The individual asserted parentage in this state pursuant to section 43-104.02, 71-628, 71-640.01, or 71-640.02 with the Department of Health and Human Services; ~~Finance and Support~~; or
- (8) There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(b) The basis of personal jurisdiction set forth in subsection (a) of this section or in any other law of this state shall not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of section 42-746 or 42-747.03 are met.

Sec. 61. Section 42-917, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 62. Section 43-102, Reissue Revised Statutes of Nebraska, is amended to read:

43-102 Except as otherwise provided in the Nebraska Indian Child Welfare Act, any person or persons desiring to adopt a minor child or an adult child shall file a petition for adoption signed and sworn to by the person or persons desiring to adopt. The consent or consents required by sections 43-104 and 43-105 or section 43-104.07, the documents required by section 43-104.07 or the documents required by sections 43-104.08 to 43-104.24, and a completed preplacement adoptive home study if required by section 43-107 shall be filed prior to the hearing required in section 43-103.

The county court of the county in which the person or persons desiring to adopt the child reside has jurisdiction of adoption proceedings, except that if a separate juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such separate



juvenile court has concurrent jurisdiction with the county court in such adoption proceeding. The petition and all other court filings for an adoption proceeding shall be filed with the clerk of the county court. The party shall state in the petition whether such party requests that the proceeding be heard by the county court or, in cases in which a separate juvenile court already has jurisdiction over the child to be adopted under the Nebraska Juvenile Code, such separate juvenile court. Such proceeding is considered a county court proceeding even if heard by a separate juvenile court judge and an order of the separate juvenile court in such adoption proceeding has the force and effect of a county court order. The testimony in an adoption proceeding heard before a separate juvenile court judge shall be preserved as in any other separate juvenile court proceeding. The clerks of the district courts shall transfer all adoption petitions and other adoption filings which were filed with such clerks prior to August 28, 1999, to the clerk of the county court where the separate juvenile court which heard the proceeding is situated. The clerk of such county court shall file and docket such petitions and other filings.

Except as set out in subdivisions (1)(b)(ii), (iii), (iv), and (v) of section 43-107, an adoption decree shall not be issued until at least six months after an adoptive home study has been completed by the ~~department~~ Department of Health and Human Services or a licensed child placement agency.

Sec. 63. Section 43-104.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-104.01 (1) The Department of Health and Human Services ~~Finance and Support~~ shall establish a biological father registry which shall record the names and addresses of (a) any person adjudicated by a court of this state to be the father of a child born out of wedlock if a certified copy of the court order is filed with the registry by such person or any other person, (b) any person who has filed with the registry, prior to notification under sections 43-104.12 to 43-104.16, a paternity claim for notification purposes for such child, (c) any person who has filed with the registry a notice of intent to claim paternity and obtain custody of such child, and (d) any person adjudicated by a court of another state or territory of the United States to be the father of such child, if a certified copy of the court order has been filed with the registry by that person or any other person.

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

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

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

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

Sec. 64. Section 43-104.02, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 65. Section 43-104.03, Reissue Revised Statutes of Nebraska, is

amended to read:

43-104.03 Within three days after the filing of a paternity claim for notification purposes or a notice of intent to claim paternity and obtain custody with the biological father registry pursuant to sections 43-104.01 and 43-104.02, the Director of Finance and Support Department of Health and Human Services shall cause a certified copy of such notice to be mailed by certified mail to (1) the mother or prospective mother of such child at the last-known address shown on the notice or (2) an agent specifically designated in writing by the mother or prospective mother to receive such notice. The notice shall be admissible in any action for paternity, shall estop the claimant from denying paternity of such child thereafter, and shall contain language that the claimant acknowledges liability for contribution to the support and education of the child after birth and for contribution to the pregnancy-related medical expenses of the mother.

Sec. 66. Section 43-104.04, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 67. Section 43-107, Reissue Revised Statutes of Nebraska, is amended to read:

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

(b)(i) For adoption placements occurring on or after January 1, 1994, a preplacement adoptive home study shall be filed with the court prior to the hearing required in section 43-103, which study is completed by the Department of Health and Human Services or a licensed child placement agency within one year before the date on which the adoptee is placed with the petitioner or petitioners and indicates that the placement of a child for the purpose of adoption would be safe and appropriate.

(ii) An adoptive home study shall not be required when the petitioner is a stepparent of the adoptee unless required by the court, except that for petitions filed on or after January 1, 1994, the judge shall order the petitioner or his or her attorney to request the Nebraska State Patrol to file a national criminal history record information check and to request the department to conduct and file a check of the central register created in section 28-718 for any history of the petitioner of behavior injurious to or which may endanger the health or morals of a child. An adoption decree shall not be issued until such records are on file with the court. The petitioner shall pay the cost of the national criminal history record information check and the check of the central register.

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

(iv) A voluntary placement for purposes other than adoption made by a parent or guardian of a child without assistance from an attorney, physician, or other individual or agency which later results in a petition for the adoption of the child shall be exempt from the requirements of a preplacement adoptive home study. The petitioner or petitioners who meet such

criteria shall have a postplacement adoptive home study completed by the department or a licensed child placement agency and filed with the court at least one week prior to the hearing for adoption.

(v) The adoption of an adult child as provided in subsection (2) of section 43-101 shall be exempt from the requirements of an adoptive home study unless the court specifically orders otherwise. The court may order an adoptive home study, a background investigation, or both if the court determines that such would be in the best interests of the adoptive party or the person to be adopted.

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

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

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

Sec. 68. Section 43-118, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

Sec. 69. Section 43-119, Reissue Revised Statutes of Nebraska, is amended to read:

43-119 For purposes of sections 43-119 to 43-146.16, unless the context otherwise requires, the definitions found in sections 43-121 to 43-123.01 and section 70 of this act shall be used.

Sec. 70. Department shall mean the Department of Health and Human Services.

Sec. 71. Section 43-123.01, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 72. Section 43-124, Reissue Revised Statutes of Nebraska, is amended to read:

43-124 The ~~Department of Health and Human Services Finance and Support~~ department shall provide a form which may be signed by a relative indicating the fact that such relative consents to his or her name being released to such relative's adopted person as provided by sections 43-113, 43-119 to ~~43-146~~, 43-146.16, 71-626, 71-626.01, and 71-627.02. Such consent shall be effective as of the time of filing the form with the ~~Department of~~

~~Health and Human Services Finance and Support department.~~

Sec. 73. Section 43-125, Reissue Revised Statutes of Nebraska, is amended to read:

43-125 The form provided by section 43-124 shall contain the following information:

- (1) The name of the person completing the form and, if different, the name of such person at the time of birth of the adopted person;
- (2) The relationship of the person to the adopted person;
- (3) The date of birth of the adopted person;
- (4) The sex of the adopted person;
- (5) The place of birth of the adopted person;
- (6) Authorization that the name, last-known address, and last-known telephone number of the relative and the original birth certificate of the adopted person may be released to the adopted person as provided by sections 43-113, 43-119 to ~~43-146~~, 43-146.16, 71-626, 71-626.01, and 71-627.02; and
- (7) A notice in the following form:

## IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form allows the Department of Health and Human Services ~~Finance and Support~~ to give your name and other information to the adopted person designated, upon his or her written request after reaching twenty-five years of age. You may file additional copies of this consent if your name or address changes. You may revoke this consent at any time by filing a revocation of consent with the Department of Health and Human Services, ~~Finance and Support~~.

Sec. 74. Section 43-126, Reissue Revised Statutes of Nebraska, is amended to read:

43-126 At any time after signing the consent form, a relative may revoke such consent form. A form for revocation of consent shall be provided by the ~~Department of Health and Human Services Finance and Support department.~~ The revocation shall be effective as of the time of filing the form with the ~~Department of Health and Human Services Finance and Support department.~~ The revocation form shall contain the following notice:

## IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services ~~Finance and Support~~ will not disclose your name or address to any person without a court order. If you sign this form and later decide you do want your name and address given to a relative properly requesting the information, you may file another consent for that purpose.

Sec. 75. Section 43-127, Reissue Revised Statutes of Nebraska, is amended to read:

43-127 The forms provided by sections 43-124 and 43-126 shall be notarized and filed with the ~~Department of Health and Human Services Finance and Support department~~ which shall keep such forms with all other records of an individual adopted person.

Sec. 76. Section 43-130, Reissue Revised Statutes of Nebraska, is amended to read:

43-130 Except as otherwise provided in the Nebraska Indian Child Welfare Act, an adopted person twenty-five years of age or older born in this state who desires access to the names of relatives or access to his or her original certificate of birth shall file a written request for such information with the ~~Department of Health and Human Services Finance and Support department.~~ The department shall provide a form for making such a request.

Sec. 77. Section 43-131, Reissue Revised Statutes of Nebraska, is amended to read:

43-131 (1) Upon receipt of a request for information, the ~~Department of Health and Human Services Finance and Support department~~ shall check the records of the adopted person making the request to determine whether the consent form provided by section 43-124 has been signed and filed by any relative of the adopted person and whether an unrevoked nonconsent form is on file from a biological parent or parents pursuant to section 43-132 or from an adoptive parent or parents pursuant to section 43-143.

(2) If the consent form has been signed and filed and has not been revoked and if no nonconsent form has been filed by an adoptive parent or parents pursuant to section 43-143, the ~~Department of Health and Human Services Finance and Support department~~ shall release the information on such form to the adopted person.

(3) If no consent forms have been filed, or if the consent form has been revoked, and if no nonconsent form has been filed pursuant to section

43-143, the following information shall be released to the adopted person:

(a) The name and address of the court which issued the adoption decree;

(b) The name and address of the child placement agency, if any, involved in the adoption; and

(c) The fact that an agency may assist the adopted person in searching for relatives as provided in sections 43-132 to 43-141.

(4) The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

Sec. 78. Section 43-132, Reissue Revised Statutes of Nebraska, is amended to read:

43-132 A biological parent or parents may at any time, if they desire, file a notice of nonconsent with the ~~Department of Health and Human Services Finance and Support~~ department stating that at no time after his or her death and prior to the death of his or her spouse, if such spouse is not a biological parent, may any information on the adopted person's original birth certificate be released to such adopted person. The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

Sec. 79. Section 43-133, Reissue Revised Statutes of Nebraska, is amended to read:

43-133 The nonconsent form provided for in section 43-132 shall contain the following information:

(1) The name of the person completing the form and, if different, the name of such person at the time of birth of the adopted person;

(2) The relationship of the person to the adopted person;

(3) The date of birth of the adopted person;

(4) The sex of the adopted person;

(5) The place of birth of the adopted person;

(6) A statement that no information concerning the information contained in the original birth certificate of the adopted person shall be released following the death of the parent or parents signing the form and such information shall not be released to the adopted person prior to the death of the spouse of such parent or parents, if such spouse is not a biological parent; and

(7) A notice in the following form:

**IMPORTANT NOTICE**

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services ~~Finance and Support~~ will not disclose any information contained on the birth certificate of the adopted person to any person following your death and prior to the death of your spouse, if such spouse is not a biological parent, without a court order. If you later decide that you do not object to the release of such information you may file a form stating that purpose.

Sec. 80. Section 43-134, Reissue Revised Statutes of Nebraska, is amended to read:

43-134 At any time after signing the notice of nonconsent provided for in section 43-132, the parent or parents may revoke such notice. A form of revocation shall be provided by the ~~Department of Health and Human Services Finance and Support,~~ department and shall take effect at the time of filing of the form with the department. The revocation form shall contain the following notice:

**IMPORTANT NOTICE**

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services ~~Finance and Support~~ may disclose any information contained on the birth certificate of the adopted person following your death. If you sign this form and later decide you do not want this information released following your death and prior to the death of your spouse, if such spouse is not a biological parent, you may file another form for that purpose.

Sec. 81. Section 43-135, Reissue Revised Statutes of Nebraska, is amended to read:

43-135 If the ~~Department of Health and Human Services Finance and Support~~ department has information indicating that both biological parents of the adopted person are deceased, or if only one biological parent is known and information indicates that such parent is deceased, and no nonconsent form, as provided in section 43-132 or 43-143, has been filed, all information on the adopted person's original birth certificate regarding such deceased parent or parents shall be released to the adopted person notwithstanding the fact that no consent form was signed and filed by such deceased parent or parents prior to death.

Sec. 82. Section 43-137, Reissue Revised Statutes of Nebraska, is amended to read:

43-137 If an adopted person twenty-five years of age or older, after following the procedures set forth in sections 43-130 and 43-131 is not able to obtain information about such person's relatives, such person may then contact the child placement agency which handled the adoption if the name of the agency has been given to the adopted person by the ~~Department of Health and Human Services Finance and Support.~~ department. If it is not feasible for the adopted person to contact the agency, such person may contact the ~~Department of Health and Human Services.~~ department.

Sec. 83. Section 43-138, Reissue Revised Statutes of Nebraska, is amended to read:

43-138 After being contacted by an adopted person, if no valid nonconsent form, as provided in section 43-132 or 43-143, is on file, the ~~Department of Health and Human Services~~ department or agency as the case may be shall apply to the clerk of the court which issued the adoption decree or the ~~Department of Health and Human Services Finance and Support~~ department for any information in the records of the court or the ~~Department of Health and Human Services Finance and Support~~ department regarding the adopted person or his or her relatives, including names, locations, and any birth, marriage, divorce, or death certificates. Any information which is available shall be given only to the ~~Department of Health and Human Services~~ department or agency. The ~~Department of Health and Human Services~~ department or agency shall keep such information confidential and shall not disclose it either directly or indirectly to the adopted person. The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

Sec. 84. Section 43-139, Reissue Revised Statutes of Nebraska, is amended to read:

43-139 When any information is provided to the ~~Department of Health and Human Services~~ department or agency pursuant to section 43-138, the person providing the information shall record in the records of the adopted person the nature of the information disclosed, to whom the information was disclosed, and the date of the disclosure.

Sec. 85. Section 43-140, Reissue Revised Statutes of Nebraska, is amended to read:

43-140 (1) Upon determining the identity and location of the relative being sought, the ~~Department of Health and Human Services~~ department or agency shall attempt to contact the relative to determine such relative's willingness to be contacted by the adopted person.

(2) In contacting the relative, the ~~Department of Health and Human Services~~ department or agency shall not discuss or reveal in any other manner to any person other than that particular relative who is being sought the nature of the contact, the name, nature, or business of the adoption agency, or any other information which might indicate or imply that such relative is the biological parent of an adopted person.

(3) In contacting the relative, the ~~Department of Health and Human Services~~ department or agency shall not reveal the identity or any other information about the adopted person.

(4) No reunion of a relative and an adopted person shall be arranged, nor shall any information about the relative be released to the adopted person until such relative has signed the consent form provided by section 43-124 and the form has been filed with the ~~Department of Health and Human Services Finance and Support.~~ department.

Sec. 86. Section 43-141, Reissue Revised Statutes of Nebraska, is amended to read:

43-141 The ~~Department of Health and Human Services~~ department or agency may charge a reasonable fee in an amount established by the department or agency in rules and regulations to recover expenses in carrying out sections 43-137 to 43-140. The department or agency shall use the fees to defray costs incurred to carry out such sections. The department or agency may waive the fee if the requesting party shows that the fee would work an undue financial hardship on the party.

The department may adopt and promulgate rules and regulations to carry out such sections.

Sec. 87. Section 43-142, Reissue Revised Statutes of Nebraska, is amended to read:

43-142 The ~~Department of Health and Human Services~~ department or an agency which receives information as provided in section 43-138 shall file a written report with the clerk of the court within nine months of receipt of the information. The report shall indicate whether the relative has been located and whether a contact between the relative and the adopted person has been arranged or has occurred. If the relative has not been located, the

report shall set forth the efforts made to identify and locate the relative.

Sec. 88. Section 43-143, Reissue Revised Statutes of Nebraska, is amended to read:

43-143 For adoptions in which the relinquishment or consent for adoption was given prior to July 20, 2002: An adoptive parent or parents may at any time, if they desire, file a notice of nonconsent with the ~~Department of Health and Human Services Finance and Support~~ department stating that at no time prior to his or her death or the death of both parents if each signed the form may any information on the adopted person's original birth certificate be released to such adopted person. The provisions of this section shall not apply to persons subject to the Nebraska Indian Child Welfare Act.

Sec. 89. Section 43-144, Reissue Revised Statutes of Nebraska, is amended to read:

43-144 The nonconsent form provided for in section 43-143 shall contain the following information:

- (1) The name of the person completing the form and, if different, the name of such person at the time of birth of the adopted person;
- (2) The relationship of the person to the adopted person;
- (3) The date of birth of the adopted person;
- (4) The sex of the adopted person;
- (5) The place of birth of the adopted person;
- (6) A statement that no information concerning the information contained in the original birth certificate of the adopted person shall be released prior to the death of the adoptive parent or parents signing the form; and

- (7) A notice in the following form:

**IMPORTANT NOTICE**

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services ~~Finance and Support~~ will not disclose any information contained on the birth certificate of the adopted person to any person prior to your death and the death of your spouse, if he or she signed the form, without a court order. If you later decide that you do not object to the release of such information you may file a form stating that purpose.

Sec. 90. Section 43-145, Reissue Revised Statutes of Nebraska, is amended to read:

43-145 At any time after signing the notice of nonconsent provided for in section 43-143, the adoptive parent or parents may revoke such notice. A form of revocation shall be provided by the ~~Department of Health and Human Services Finance and Support,~~ department and shall take effect at the time of filing of the form with the ~~Department of Health and Human Services Finance and Support.~~ department. The revocation form shall contain the following notice:

**IMPORTANT NOTICE**

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services ~~Finance and Support~~ may disclose any information contained on the birth certificate of the adopted person pursuant to sections 43-113, 43-119 to ~~43-146,~~ 43-146.16, 71-626, 71-626.01, and 71-627.02. If you sign this form and later decide you do not want this information released prior to your death you may file another form for that purpose.

Sec. 91. Section 43-146, Reissue Revised Statutes of Nebraska, is amended to read:

43-146 The forms provided by sections 43-132, 43-134, 43-143, and 43-145 shall be notarized and filed with the ~~Department of Health and Human Services Finance and Support~~ department which shall keep such forms with all other records of an individual adopted person.

Sec. 92. Section 43-146.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.02 A child placement agency, the ~~Department of Health and Human Services,~~ department, or a private agency handling the adoption, as the case may be, shall maintain and shall provide to the adopting parents upon placement of the person with such parents and to the adopted person, upon his or her request, the available medical history of the person placed for adoption and of the biological parents. The medical history shall not include the names of the biological parents of the adopted person or any other identifying information.

Sec. 93. Section 43-146.04, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.04 An adopted person twenty-one years of age or older born

in this state who desires access to the names of relatives or access to his or her original certificate of birth shall file a written request for such information with the ~~Department of Health and Human Services Finance and Support~~ department. The department shall provide a form for making such request.

Sec. 94. Section 43-146.05, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.05 (1) Upon receipt of a request for information made under section 43-146.04, the ~~Department of Health and Human Services Finance and Support~~ department shall check the records of the adopted person to determine whether an unrevoked nonconsent form is on file from a biological parent pursuant to section 43-146.06.

(2) If no nonconsent form has been filed pursuant to section 43-146.06, the following information shall be released to the adopted person:

(a) The name and address of the court which issued the adoption decree;

(b) The name and address of the child placement agency, if any, involved in the adoption;

(c) The fact that an agency or the ~~Department of Health and Human Services~~ department may assist the adopted person in searching for relatives as provided in sections 43-146.10 to 43-146.14;

(d) A copy of the person's original birth certificate; and

(e) A copy of the person's medical history and any medical records on file.

(3) If an unrevoked nonconsent form has been filed pursuant to section 43-146.06, no information may be released to the adopted person except a copy of the person's medical history as provided in section 43-107 if requested. The medical history shall not include the names of the biological parents or relatives of the adopted person or any other identifying information.

Sec. 95. Section 43-146.06, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.06 A biological parent may at any time file a notice of nonconsent with the ~~Department of Health and Human Services Finance and Support~~ department stating that at no time prior to his or her death may any information on the adopted person's original birth certificate or any other identifying information, except medical histories as provided in section 43-107, be released to such adopted person. Failure by a biological parent to sign the notice of nonconsent shall be deemed a notice of consent by such parent to release the adopted person's original birth certificate to such adopted person.

Sec. 96. Section 43-146.07, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.07 The nonconsent form provided for in section 43-146.06 shall be designed by the ~~Department of Health and Human Services Finance and Support~~ department and shall contain the following information:

(1) The name of the person completing the form and, if different, the name of such person at the time of birth of the adopted person;

(2) The relationship of the person to the adopted person;

(3) The date of birth of the adopted person;

(4) The sex of the adopted person;

(5) The place of birth of the adopted person;

(6) A statement that no information contained in the original birth certificate or any other identifying information, except medical histories as provided in section 43-107, shall be released prior to the death of the parent signing the form;

(7) A statement that the person signing understands the effect and consequences of filing or not filing a nonconsent form; and

(8) A notice in the following form:

**IMPORTANT NOTICE**

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services ~~Finance and Support~~ will not disclose any information contained in the original birth certificate of the adopted person or any other identifying information to any person prior to your death without a court order. If you later decide that you do not object to the release of such information, you may file a form stating that purpose.

Sec. 97. Section 43-146.08, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.08 At any time after signing the notice of nonconsent provided for in section 43-146.06, the biological parent may revoke such notice. A form of revocation shall be provided by the ~~Department of Health~~



and ~~Human Services Finance and Support~~ department and shall take effect at the time of filing of the form with the department. The revocation form shall contain the following notice:

IMPORTANT NOTICE

You do not have to sign this form. If you do sign it, you are entitled to a copy of it. Your signature on this form means that the Department of Health and Human Services ~~Finance and Support~~ may at any time disclose to the adopted person any information contained on the original birth certificate of the adopted person.

Sec. 98. Section 43-146.09, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.09 If the ~~Department of Health and Human Services Finance and Support~~ department has verified information indicating that both biological parents of the adopted person are deceased or if only one biological parent is known and verified information indicates that such parent is deceased, all information on the adopted person's original birth certificate regarding such deceased parent or parents shall be released to the adopted person upon request. The department shall establish a policy for verifying information about the death of the biological parent or parents.

Sec. 99. Section 43-146.10, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.10 If an adopted person twenty-one years of age or older, after following the procedures set forth in sections 43-146.04 and 43-146.05, is unable to obtain information about the adopted person's relatives and there is no unrevoked nonconsent form as provided in section 43-146.06 on file with the ~~Department of Health and Human Services Finance and Support,~~ department, such person may then contact the child placement agency which handled the adoption or the ~~Department of Health and Human Services-~~ department.

Sec. 100. Section 43-146.11, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.11 After being contacted by an adopted person as provided in section 43-146.10, the ~~Department of Health and Human Services~~ department or agency, as the case may be, shall verify with the ~~Department of Health and Human Services Finance and Support~~ that no unrevoked nonconsent form is on file with the department. If an unrevoked nonconsent form is not on file, the ~~Department of Health and Human Services~~ department or agency, as the case may be, shall apply to the clerk of the court which issued the adoption decree or the ~~Department of Health and Human Services Finance and Support~~ department for any information in the court or ~~Department of Health and Human Services Finance and Support~~ department records regarding the adopted person or his or her relatives, including names, locations, and any birth, marriage, divorce, or death certificates. Any information which is available shall be given by the court or ~~Department of Health and Human Services Finance and Support~~ department only to the ~~Department of Health and Human Services~~ department or agency. The ~~Department of Health and Human Services~~ department or agency shall keep such information confidential.

Sec. 101. Section 43-146.12, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.12 When any information is provided to the ~~Department of Health and Human Services~~ department or agency pursuant to section 43-146.11, the person providing the information shall record in the records of the adopted person the nature of the information disclosed, to whom the information was disclosed, and the date of the disclosure.

Sec. 102. Section 43-146.13, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.13 (1) Upon determining the identity and location of the relative being sought, the ~~Department of Health and Human Services~~ department or agency shall attempt to contact the relative to determine such relative's willingness to be contacted by the adopted person.

(2) Information about the relative shall not be released to the adopted person by the department or agency unless such relative agrees to be contacted by the adopted person.

Sec. 103. Section 43-146.14, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.14 The ~~Department of Health and Human Services~~ department or agency may charge a reasonable fee in an amount established by the department or agency in rules and regulations to recover expenses in carrying out sections 43-146.10 to 43-146.13. The department or agency shall use the fees to defray costs incurred to carry out such sections. The department or agency may waive the fee if the requesting party shows that the fee would work an undue financial hardship on the party.

The department may adopt and promulgate rules and regulations to

carry out sections 43-123.01 and 43-146.01 to 43-146.16.

Sec. 104. Section 43-146.15, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.15 ~~The Department of Health and Human Services~~ department or an agency which receives information as provided in section 43-146.11 shall file a written report with the clerk of the court or ~~Department of Health and Human Services Finance and Support~~ department within nine months of receipt of the information. The report shall indicate whether the relative has been located and whether a contact between the relative and the adopted person has been arranged or has occurred. If the relative has not been located, the report shall set forth the efforts made to identify and locate the relative.

Sec. 105. Section 43-146.16, Reissue Revised Statutes of Nebraska, is amended to read:

43-146.16 The forms provided by sections 43-146.06 and 43-146.08 shall be notarized and filed with the ~~Department of Health and Human Services Finance and Support~~ department which shall keep such forms with all other records of the adopted person.

Sec. 106. Section 43-146.17, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-146.17 (1) Notwithstanding sections 43-119 to 43-146.16 and except as otherwise provided in this section, an heir twenty-one years of age or older of an adopted person shall have access to all information on file at the ~~Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ related to such adopted person, including information contained in the original birth certificate of the adopted person, if: (a) (i) The adopted person is deceased, (ii) both biological parents of the adopted person are deceased or, if only one biological parent is known, such parent is deceased, and (iii) each spouse of the biological parent or parents of the adopted person, if any, is deceased, if such spouse is not a biological parent; or (b) at least one hundred years has passed since the birth of the adopted person.

(2) The following information relating to an adopted person shall not be released to the heir of such person under this section: (a) Tests conducted for the human immunodeficiency virus or acquired immunodeficiency syndrome; (b) the revocation of a license to practice medicine in the State of Nebraska; (c) child protective services reports or records; (d) adult protective services reports or records; (e) information from the central register of child protection cases and the Adult Protective Services Central Registry; or (f) law enforcement investigative reports.

(3) ~~The Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ department shall provide a form that an heir of an adopted person may use to request information under this section. ~~The Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ department may charge a reasonable fee in an amount established by rules and regulations of each the department to recover expenses incurred by the department in carrying out this section. Such fee may be waived if the requesting party shows that the fee would work an undue financial hardship on the party. When any information is provided to an heir of an adopted person under this section, the disclosure of such information shall be recorded in the records of the adopted person, including the nature of the information disclosed, to whom the information was disclosed, and the date of the disclosure.

(4) For purposes of this section, an heir of an adopted person means a direct biological descendent of such adopted person.

(5) ~~The Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ department may adopt and promulgate rules and regulations to carry out this section.

Sec. 107. Section 43-161, Reissue Revised Statutes of Nebraska, is amended to read:

43-161 All client records from the Nebraska Industrial Home at Milford shall be maintained by the Department of Health and Human Services as confidential records but shall be accessible as provided by statute or by the rules and regulations of the department. ~~The Department of Health and Human Services Regulation and Licensure and the Department of Health and Human Services Finance and Support shall have complete access to these records without restriction.~~

Sec. 108. Section 43-284.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-284.02 The Department of Health and Human Services may make payments as needed on behalf of a child who has been a ward of the department after the appointment of a guardian for the child. Such payments to the guardian may include maintenance costs, medical and surgical expenses, and other costs incidental to the care of the child. All such payments shall terminate on or before the child's nineteenth birthday. The child under guardianship shall be a child for whom the guardianship would not be possible without the financial aid provided under this section.

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

Sec. 109. Section 43-404, Reissue Revised Statutes of Nebraska, is amended to read:

43-404 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~~ chief executive officer of the department or his or her designee and shall be responsible for the administration of the facilities and programs of the office. The ~~Department of Health and Human Services~~ department may contract with a state agency or private provider to operate any facilities and programs of the Office of Juvenile Services.

Sec. 110. Section 43-411, Reissue Revised Statutes of Nebraska, is amended to read:

43-411 The ~~Director~~ chief executive officer of the Department of Health and Human Services shall have the authority, and may delegate the authority only to the Administrator of the Office of Juvenile Services and the superintendents of the youth rehabilitation and treatment centers, to issue detainers for the apprehension and detention of juveniles who have absconded from a placement with or commitment to the office. Any peace officer who detains a juvenile on such a detainer shall hold the juvenile in an appropriate facility or program for juveniles until the office can take custody of the juvenile.

Sec. 111. Section 43-504.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-504.01 As a condition of eligibility for aid for children included in section 43-504, a partially or totally unemployed parent or needy caretaker shall participate in the employment preparation or training program for aid to dependent children, unless considered exempt under rules and regulations adopted and promulgated by the ~~Director~~ Department of Health and Human Services, and any totally or partially unemployed parent or needy caretaker who fails or refuses without good cause to participate in the employment preparation or training program or who refuses without good cause to accept employment in which he or she is able to engage which will increase his or her ability to maintain himself or herself and his or her family shall be deemed by such refusal to have rendered his or her children ineligible for further aid until he or she has complied with this section.

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

Sec. 112. Section 43-507, Reissue Revised Statutes of Nebraska, is amended to read:

43-507 The ~~Director~~ Department of Health and Human Services, ~~in~~ on behalf of mentally and physically handicapped children, shall (1) obtain admission to state and other suitable schools, hospitals, or other institutions or care in their own homes or in family, free, or boarding homes for such children in accordance with the provisions of the existing law, (2) maintain medical supervision over such mentally or physically handicapped children, and (3) provide necessary medical or surgical care in a suitable hospital, sanitarium, preventorium, or other institution or in the child's own home or a home for any medically handicapped child needing such care and pay for such care from public funds, if necessary.

Sec. 113. Section 43-508, Reissue Revised Statutes of Nebraska, is amended to read:

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

former home, such state institution may, with the consent of the ~~director,~~ department, place such child into the care of the ~~director,~~ department.

Sec. 114. Section 43-511, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 115. Section 43-512, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

(b) If a recipient of aid to dependent children becomes ineligible for aid to dependent children as a result of increased hours of employment or increased income from employment after having participated in any of the programs established pursuant to subdivision (a) of this subsection, the recipient may be eligible for the following benefits, as provided in rules and regulations of the department in accordance with sections 402, 417, and 1925 of the federal Social Security Act, as amended, Public Law 100-485, in order to help the family during the transition from public assistance to independence:

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

(ii) Child care as provided in subdivision (1)(c) of section 68-1724; and

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

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

(a) Authorized attorney shall mean an attorney, employed by the county subject to the approval of the county board, employed by the department, or appointed by the court, who is authorized to investigate and

prosecute child, spousal, and medical support cases. An authorized attorney shall represent the state as provided in section 43-512.03;

(b) Child support shall be defined as provided in section 43-1705;

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

(d) Spousal support shall be defined as provided in section 43-1715;

(e) State Disbursement Unit shall be defined as provided in section 43-3341; and

(f) Support shall be defined as provided in section 43-3313.

Sec. 116. Section 43-512.11, Reissue Revised Statutes of Nebraska, is amended to read:

43-512.11 The ~~Director~~ Department of Health and Human Services shall report annually, not later than February 1 of each year, to the Legislature regarding the effectiveness of programs established pursuant to subdivision (5) (a) of section 43-512. The report shall include, but not be limited to:

(1) The number of program participants;

(2) The number of program participants who become employed, whether such employment is full time or part time or subsidized or unsubsidized, and whether the employment was retained for at least thirty days;

(3) Supportive services provided to participants in the program;

(4) Grant reductions realized; and

(5) A cost and benefit statement for the program.

Sec. 117. Section 43-515, Reissue Revised Statutes of Nebraska, is amended to read:

43-515 In each case the ~~Director~~ Department of Health and Human Services shall make such investigation and reinvestigations as may be necessary to determine family circumstances and eligibility for assistance payments. Each applicant and recipient shall be notified in writing as to the approval or disapproval of any application, as to the amount of payments awarded, as to any change in the amount of payments awarded, and as to the discontinuance of payments.

Sec. 118. Section 43-522, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-522 The ~~Director of Finance and Support~~ Department of Health and Human Services shall expend state assistance funds allocated for medically handicapped children to supplement other state, county, and municipal, benevolent, fraternal, and charitable expenditures, to extend and improve, especially in rural areas and in areas suffering from severe economic distress, services for locating physically and medically handicapped children and for providing medical, surgical, correction, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are physically or medically handicapped or who are suffering from conditions which lead to medical handicaps. Expenditures and services shall be uniformly distributed so far as possible or practicable under conditions and circumstances which may be found to exist.

Sec. 119. Section 43-523, Reissue Revised Statutes of Nebraska, is amended to read:

43-523 The ~~Director~~ Department of Health and Human Services shall make such reports to the Department of Health and Human Services of the United States in such form and containing such information as such department may from time to time require, and the department shall comply with such provisions as he or she may from time to time find necessary, to assure the correctness of such reports.

Sec. 120. Section 43-524, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-524 The ~~Director of Finance and Support~~ Department of Health and Human Services shall cooperate with medical, health, nursing, and welfare groups and organizations and with any agency in the state charged with providing for local rehabilitation of physically handicapped children.

Sec. 121. Section 43-525, Reissue Revised Statutes of Nebraska, is amended to read:

43-525 The Department of Health and Human Services ~~through its director~~ shall expend state assistance funds allocated for child welfare services in establishing, extending, and strengthening, especially in rural areas, child welfare services mentioned in sections 43-501 to 43-526, for which other funds are not specifically or sufficiently made available by such sections or other laws of this state.

Sec. 122. Section 43-529, Reissue Revised Statutes of Nebraska, is amended to read:

43-529 (1) Payments with respect to any dependent child, including

payments to meet the needs of the relative with whom such child is living, such relative's spouse, and the needs of any other individual living in the same home as such child and relative if such needs are taken into account in making the determination for eligibility of such child to receive aid to families with dependent children, may be made on behalf of such child, relative, and other person to either (a) another individual who, in accordance with standards set by the ~~Director~~ Department of Health and Human Services, is interested in or concerned with the welfare of such child or relative, or (b) directly to a person or entity furnishing food, living accommodations, or other goods, services, or items to or for such child, relative, or other person, or (c) both such individual and such person or entity.

(2) No such payments shall be made unless all of the following conditions are met: (a) The ~~director~~ department has determined that the relative of such child with respect to whom such payments are made has such inability to manage funds that making payments to him or her would be contrary to the welfare of the child and that it is therefor necessary to provide such aid with respect to such child and relative through payments described above to another interested individual, (b) the ~~director~~ department has made arrangements for undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such a manner as to protect the welfare of the family, and (c) the ~~director~~ department has approved a plan that provides for a periodic review to ascertain whether conditions justifying such payments still exist, with provision for termination of such payments if such conditions no longer exist and for judicial appointment of a guardian or conservator if it appears that the need for such special payments is continuing or is likely to continue beyond a period specified by the ~~director~~ department.

Sec. 123. Section 43-536, Reissue Revised Statutes of Nebraska, 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~~ department shall adjust the reimbursement rate for child care every odd-numbered year 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 (1) nationally accredited child care providers may be reimbursed at higher rates and (2) for the two fiscal years beginning July 1, 2003, such rate may be less than the sixtieth percentile but shall not be less than the rate for the immediately preceding fiscal year.

Sec. 124. Section 43-905, Reissue Revised Statutes of Nebraska, 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~~ department becomes self-supporting, the ~~Director of Health and Human Services~~ department 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.

Sec. 125. Section 43-907, Reissue Revised Statutes of Nebraska, is amended to read:

43-907 Unless a guardian shall have been appointed by a court of competent jurisdiction, the ~~Director~~ Department of Health and Human Services shall take custody of and exercise general control over assets owned by children under ~~his or her~~ the charge of the department. Children owning assets shall at all times pay for personal items. Assets over and above a maximum of one thousand dollars and current income shall be available for reimbursement to the state for the cost of care. Assets may be deposited in a checking account, invested in United States bonds, or deposited in a savings account insured by the United States Government. All income received from the investment or deposit of assets shall be credited to the individual child whose assets were invested or deposited. The ~~director~~ department shall make and maintain detailed records showing all receipts, investments, and expenditures of assets owned by children under ~~his or her~~ the charge of the department.

Sec. 126. Section 43-908, Reissue Revised Statutes of Nebraska, is amended to read:

43-908 An attempt shall be made by the ~~Director~~ Department of Health and Human Services to locate children who arrive at the age of majority for the purpose of delivering and transferring to any such child such funds or property as he or she may own. In the event that such child cannot be located within five years after the child arrives at the age of majority, any funds or assets owned by him or her shall be transferred to the state treasury of the State of Nebraska.

Sec. 127. Section 43-1320, Reissue Revised Statutes of Nebraska, 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 therefor 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 (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 (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~~ department 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. 128. Section 43-1408.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-1408.01 (1) During the period immediately before or after the in-hospital birth of a child whose mother was not married at the time of either conception or birth of the child or at any time between conception and birth of the child, the person in charge of such hospital or his or her designated representative shall provide to the child's mother and alleged father, if the alleged father is readily identifiable and available, the documents and written instructions for such mother and father to complete a notarized acknowledgment of paternity. Such acknowledgment, if signed by both

parties and notarized, shall be filed with the Department of Health and Human Services Finance and Support at the same time at which the certificate of live birth is filed.

Nothing in this section shall be deemed to require the person in charge of such hospital or his or her designee to seek out or otherwise locate an alleged father who is not readily identifiable or available.

(2) The acknowledgment shall be executed on a form prepared by the ~~Department of Health and Human Services Finance and Support~~, department. Such form shall be in essentially the same form provided by the department and used for obtaining signatures required by section 71-640.02. The acknowledgment shall include, but not be limited to, (a) a statement by the mother consenting to the acknowledgment of paternity and a statement that the alleged father is the biological father of the child, (b) a statement by the alleged father that he is the biological father of the child, (c) written information regarding parental rights and responsibilities, and (d) the social security numbers of the parents. ~~In addition to distribution required by this section, the form shall also be made available to the Department of Health and Human Services for distribution.~~

(3) The form provided for in subsection (2) of this section shall also contain instructions for completion and filing with the ~~Department of Health and Human Services Finance and Support~~ department if it is not completed and filed with a birth certificate as provided in subsection (1) of this section.

(4) The ~~Department of Health and Human Services Finance and Support~~ department shall accept completed acknowledgment forms and make available to the ~~Department of Health and Human Services~~, county attorneys, or authorized attorneys a record of acknowledgments it has received, as provided in subsection (1) of section 71-612. The ~~Department of Health and Human Services Finance and Support~~ department may prepare photographic, electronic, or other reproductions of acknowledgments. Such reproductions, when certified and approved by the ~~Department of Health and Human Services Finance and Support~~, department, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as provided by rules and regulations of the ~~Department of Health and Human Services Finance and Support~~, department.

(5) The ~~Department of Health and Human Services~~ department may by regulation establish a nominal payment and procedure for payment by the department for each acknowledgment filed with the ~~Department of Health and Human Services Finance and Support~~, department. The amount of such payments and the entities receiving such payments shall be within the limits allowed by Title IV-D of the federal Social Security Act, as amended.

Sec. 129. Section 43-1414, Reissue Revised Statutes of Nebraska, is amended to read:

43-1414 (1) In any proceeding to establish paternity, the court may, on its own motion, or shall, on a timely request of a party, after notice and hearing, require the child, the mother, and the alleged father to submit to genetic testing to be performed on blood or any other appropriate genetic testing material. Failure to comply with such requirement for genetic testing shall constitute contempt and may be dealt with in the same manner as other contempts. If genetic testing is required, the court shall direct that inherited characteristics be determined by appropriate testing procedures and shall appoint an expert in genetic testing and qualified as an examiner of genetic markers to analyze and interpret the results and to report to the court. The court shall determine the number of experts required.

(2) In any proceeding to establish paternity, the ~~Director~~ Department of Health and Human Services, county attorneys, and authorized attorneys have the authority to require the child, the mother, and the alleged father to submit to genetic testing to be performed on blood or any other appropriate genetic testing material. All genetic testing shall be performed by a laboratory accredited by the College of American Pathologists or any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the college.

(3) Except as authorized under sections 43-1414 to 43-1418, a person shall not disclose information obtained from genetic paternity testing that is done pursuant to such sections.

(4) If an alleged father who is tested as part of an action under such sections is found to be the child's father, the testing laboratory shall retain the genetic testing material of the alleged father, mother, and child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. If a man is found not to be the child's father, the testing laboratory shall destroy the man's



genetic testing material in the presence of a witness after such material is used in the paternity action. The witness may be an individual who is a party to the destruction of the genetic testing material. After the man's genetic testing material is destroyed, the testing laboratory shall make and keep a written record of the destruction and have the individual who witnessed the destruction sign the record. The testing laboratory shall also expunge its records regarding the genetic paternity testing performed on the genetic testing material in accordance with the national standards under which the laboratory is accredited. The testing laboratory shall retain the genetic testing material of the mother and child for no longer than the period of years prescribed by the national standards under which the laboratory is accredited. After a testing laboratory destroys an individual's genetic testing material as provided in this subsection, it shall notify the adult individual, or the parent or legal guardian of a minor individual, by certified mail that the genetic testing material was destroyed.

(5) A testing laboratory is required to protect the confidentiality of genetic testing material, except as required for a paternity determination. The court and its officers shall not use or disclose genetic testing material for a purpose other than the paternity determination.

(6) A person shall not buy, sell, transfer, or offer genetic testing material obtained under sections 43-1414 to 43-1418.

(7) A testing laboratory shall annually have an independent audit verifying the contracting laboratory's compliance with this section. The audit shall not disclose the names of, or otherwise identify, the test subjects required to submit to testing during the previous year. The testing laboratory shall forward the audit to the department.

(8) Any person convicted of violating this section shall be guilty of a Class IV misdemeanor for the first offense and a Class III misdemeanor for the second or subsequent offense.

(9) For purposes of sections 43-1414 to 43-1418, an expert in genetic testing means a person who has formal doctoral training or postdoctoral training in human genetics.

Sec. 130. Section 43-1718.02, Reissue Revised Statutes of Nebraska, is amended to read:

43-1718.02 (1) In any case in which services are not provided under Title IV-D of the federal Social Security Act, as amended, and a support order has been issued or modified on or after July 1, 1994, the obligor's income shall be subject to income withholding regardless of whether or not payments pursuant to such order are in arrears, and the court shall require such income withholding in its order unless:

(a) One of the parties demonstrates and the court finds that there is good cause not to require immediate income withholding; or

(b) A written agreement between the parties providing an alternative arrangement is incorporated into the support order.

(2) If the court pursuant to subsection (1) of this section orders income withholding regardless of whether or not payments are in arrears, the obligor shall prepare a notice to withhold income. The notice to withhold income shall be substantially similar to a prototype prepared by the ~~Department of Health and Human Services~~ department and made available by the department to the State Court Administrator and the clerks of the district courts. The notice to withhold shall direct:

(a) That the employer or other payor shall withhold from the obligor's disposable income the amount stated in the notice to withhold for the purpose of satisfying the obligor's ongoing obligation for support payments as they become due and if there are arrearages, reducing such arrearages in child, spousal, or medical support payments arising from the obligor's failure to fully comply with a support order;

(b) That the employer or other payor shall pay to the obligor, on his or her regularly scheduled payday, such income then due which is not required to be withheld as stated on the notice or pursuant to any court order;

(c) That the employer or other payor shall not withhold more than the maximum amount permitted to be withheld under section 303(b) of the federal Consumer Credit Protection Act, 15 U.S.C. 1673(b)(2)(A) and (B), and the amount withheld to satisfy an arrearage of child, spousal, or medical support when added to the amount withheld to pay current support and the fee provided for in subdivision (2)(d) of this section shall not exceed such maximum amount;

(d) That the employer or other payor may assess an additional administrative fee from the obligor's disposable income not to exceed two dollars and fifty cents in any calendar month as compensation for the employer's or other payor's reasonable cost incurred in complying with the

notice;

(e) That the employer or other payor shall remit, within seven days after the date the obligor is paid and in the manner specified in the notice, the income withheld, less the deduction allowed as an administrative fee by subdivision (2)(d) of this section, to the State Disbursement Unit and shall notify the unit of the date such income was withheld;

(f) That the notice to withhold income shall terminate with respect to the employer or other payor without any court action or action by the obligor thirty days after the obligor ceases employment with or is no longer entitled to income from such employer or other payor;

(g) That the employer or other payor may combine amounts required to be withheld from the income of two or more obligors in a single payment to the unit if the portion of the single payment which is attributable to each individual obligor is separately identified;

(h) That an employer or other payor who fails to withhold and remit income of an obligor after receiving proper notice or who discriminates, demotes, disciplines, or terminates an employee or payee after receiving a notice to withhold income shall be subject to the penalties prescribed in subsections (4) and (5) of this section; and

(i) That if the employer or other payor receives more than one notice to withhold income of a single obligor and the amount of income available to be withheld pursuant to the limits specified in subdivision (c) of this subsection is insufficient to satisfy the total support amount certified in the notices, the income available shall first be applied to current support. If the total amount of income available to be withheld is insufficient to satisfy the total amount of current support certified by the notices, the employer or other payor shall withhold for each notice the proportion that the amount of the current support certified in such notice bears to the total amount of current support certified in all notices received for the obligor. Any remaining income available to be withheld after current support is satisfied for all notices shall be applied to arrearages. If arrearages are certified in more than one notice, the employer or other payor shall withhold for each notice the proportion that the amount of the arrearage certified in such notice bears to the total amount of arrearage certified in all notices received for the obligor.

Compliance with the order by the employer or other payor shall operate as a discharge of the employer's or other payor's liability to the obligor as to the portion of the obligor's income withheld.

(3) The obligor shall deliver the notice to withhold income to his or her current employer or other payor and provide a copy of such notice to the clerk of the district court.

(4) Any employer or other payor who fails to withhold and remit any income of an obligor receiving income from the employer or other payor, after proper notice as provided in subsection (2) of this section, shall be required to pay to the unit the amount specified in the notice.

(5) An employer or other payor shall not use an order or notice to withhold income or order or the possibility of income withholding as a basis for (a) discrimination in hiring, (b) demotion of an employee or payee, (c) disciplinary action against an employee or payee, or (d) termination of an employee or payee.

Upon application by the obligor and after a hearing on the matter, the court may impose a civil fine of up to five hundred dollars for each violation of this subsection.

An employer or other payor who violates this subsection shall be required to make full restitution to the aggrieved employee or payee, including reinstatement and backpay.

(6) When an obligor ceases employment with or is no longer entitled to income from an employer or other payor, the notice to withhold income shall not cease to operate against the obligor and income withholding shall continue to apply to any subsequent employment or income of the obligor. The notice to withhold income shall terminate with respect to the employer or other payor without any court action or action by the obligor thirty days after the obligor ceases employment with or is no longer entitled to income from such employer or other payor. A notice to withhold income shall also terminate when the child, spousal, or medical support obligation terminates and all past-due support has been paid, in which case the obligor shall notify the employer or other payor to cease withholding income.

(7) A notice to withhold income may be modified or revoked by a court of competent jurisdiction as a result of modification of the support order. A notice to withhold income may also be modified or revoked by a court of competent jurisdiction, for other good cause shown, after notice and a hearing on the issue.

(8) The obligee or obligor may file an action in district court to enforce this section.

(9) If after an order is issued in any case under this section the case becomes one in which services are provided under Title IV-D of the federal Social Security Act, as amended, the county attorney or authorized attorney or the ~~Director~~ Department of Health and Human Services shall implement income withholding as otherwise provided in the Income Withholding for Child Support Act.

Sec. 131. Section 43-1720, Reissue Revised Statutes of Nebraska, is amended to read:

43-1720 If the ~~Director of Health and Human Services~~ department has previously sent a notice of assignment and opportunity for hearing on the same support order under section 48-647, the county attorney, authorized attorney, or the department shall certify the amount to be withheld from an obligor's disposable income pursuant to section 43-1722 and shall notify the obligor's employer or other payor pursuant to section 43-1723. If the ~~director~~ department has not previously sent such notice, and except in cases in which the court has ordered income withholding pursuant to subsection (1) of section 43-1718.01 or section 43-1718.02, upon receiving certification pursuant to section 42-358 or notice of delinquent payments of medical support, the county attorney, the authorized attorney, or the department shall send a notice by certified mail to the last-known address of the obligor stating:

(1) That an assignment of his or her income by means of income withholding will go into effect within fifteen days after the date the notice is sent;

(2) That the income withholding will continue to apply to any subsequent employer or other payor of the obligor;

(3) The amount of support the obligor owes;

(4) The amount of income that will be withheld; and

(5) That within the fifteen-day period, the obligor may request a hearing in the manner specified in the notice to contest a mistake of fact. For purposes of this subdivision, mistake of fact shall mean (a) an error in the amount of current or overdue support, (b) an error in the identity of the obligor, or (c) an error in the amount to be withheld as provided in section 43-1722.

Sec. 132. Section 43-1902, Reissue Revised Statutes of Nebraska, is amended to read:

43-1902 As used in sections 43-1901 to 43-1906, unless the context otherwise requires:

(1) Board ~~shall mean~~ means the Nebraska Child Abuse Prevention Fund Board;

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

~~(3) Director shall mean the Director of Health and Human Services; and~~

~~(4) (3) Fund shall mean~~ means the Nebraska Child Abuse Prevention Fund.

Sec. 133. Section 43-1903, Reissue Revised Statutes of Nebraska, is amended to read:

43-1903 (1) There is hereby created within the department the Nebraska Child Abuse Prevention Fund Board which shall be composed of nine members as follows: ~~The Director of Health and Human Services, the Director of Regulation and Licensure, Two representatives of the Department of Health and Human Services~~ appointed by the chief executive officer and seven members to be appointed by the Governor with the approval of the Legislature. The Governor shall appoint two members from each of the three congressional districts and one member from the state at large. As a group, the appointed board members (a) shall demonstrate knowledge in the area of child abuse and neglect prevention, (b) shall be representative of the demographic composition of this state, and (c) to the extent practicable, shall be representative of all of the following categories (i) the business community, (ii) the religious community, (iii) the legal community, (iv) professional providers of child abuse and neglect prevention services, and (v) volunteers in child abuse and neglect prevention services.

(2) The term of each appointed board member shall be three years, except that of the board members first appointed, two, including the at-large member, shall serve for three years, three shall serve for two years, and two shall serve for one year. The Governor shall designate the term which each of the members first appointed shall serve when he or she makes the appointments. An appointed board member shall not serve more than two consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The board shall elect a chairperson from among the appointed board members who shall serve for a term of two years. The board may elect the other officers and establish committees as it deems appropriate.

(4) The members of the board shall not receive any compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as provided in sections 81-1174 to 81-1177. The reimbursement shall be paid from the fund. In any one fiscal year, no more than five percent of the annually available funds as provided in section 43-1906 shall be used for the purpose of reimbursement of board members.

(5) Any board member may be removed by the Governor for misconduct, incompetency, or neglect of duty after first being given the opportunity to be heard in his or her own behalf.

Sec. 134. Section 43-1904, Reissue Revised Statutes of Nebraska, is amended to read:

43-1904 The board shall have the following powers and duties:

(1) To meet not less than twice annually at the call of the chairperson to conduct its official business;

(2) To require that at least five of the board members approve the awarding of grants made under subdivision (3) (b) of this section; and

(3) To develop, one year after the appointment of the original board and annually thereafter, a state plan for the distribution and disbursement of money in the fund. The plan developed under this subdivision shall assure that an equal opportunity exists for the establishment and maintenance of prevention programs and the receipt of money from the fund in all geographic areas of this state. The plan shall be transmitted to the ~~director,~~ department, the Governor, and the Legislature and made available to the general public. In carrying out a plan developed under this subdivision, the board shall establish procedures for:

(a) Developing and publicizing criteria for the awarding of grants for programs to be supported with money from the fund within the limits of appropriations made for that purpose;

(b) Awarding grants to agencies, organizations, or individuals for community-based child abuse prevention programs. The programs shall provide education, public awareness, or prevention services. In awarding grants under this subdivision, consideration shall be given by the board to factors such as need, geographic location, diversity, coordination with or improvement of existing services, and extensive use of volunteers;

(c) Supporting and encouraging the formation of local child abuse councils;

(d) Consulting with applicable state agencies, commissions, and boards to help determine probable effectiveness, fiscal soundness, and need for proposed community-based educational and service prevention programs;

(e) Facilitating information exchange among groups concerned with prevention programs; and

(f) Encouraging statewide educational and public awareness programs regarding the problems of families and children which (i) encourage professional persons and groups to recognize and deal with problems of families and children, (ii) make information regarding the problems of families and children and the prevention of such problems available to the general public in order to encourage citizens to become involved in the prevention of such problems, and (iii) encourage the development of community prevention programs.

Sec. 135. Section 43-1905, Reissue Revised Statutes of Nebraska, is amended to read:

43-1905 The ~~director~~ department shall:

(1) Have the power to deny any grant award, or portion of such award, made by the board;

(2) Review and monitor expenditures of money from the fund on a periodic basis; and

(3) Submit to the Governor and the Legislature an annual report of all receipts and disbursements of funds, including the recipients, the nature of the program funded, the dollar amount awarded, and the percentage of the total annually available funds the grant represents. The report may be made available to the public upon request.

Sec. 136. Section 43-2002, Reissue Revised Statutes of Nebraska, is amended to read:

43-2002 Each year Nebraska children are reported missing. The Legislature is seeking a procedure whereby it can help locate such missing children through school records and birth certificates filed with the schools and the Department of Health and Human Services. ~~Finance and Support.~~

Sec. 137. Section 43-2003, Reissue Revised Statutes of Nebraska, is

amended to read:

43-2003 As used in the Missing Children Identification Act, unless the context otherwise requires:

(1) County agency means any agency in a county that records and maintains birth certificates;

(2) Department means the Department of Health and Human Services; ~~Finance and Support;~~

(3) Missing person means a person sixteen years of age or younger reported to any law enforcement agency as abducted or lost; and

(4) Patrol means the Nebraska State Patrol.

Sec. 138. Section 43-2411, Reissue Revised Statutes of Nebraska, is amended to read:

43-2411 (1) The Nebraska Coalition for Juvenile Justice is created. As provided in the federal act, there shall be no less than fifteen nor more than thirty-three members of the coalition. The coalition members shall be appointed by the Governor and shall include:

(a) The Administrator of the Office of Juvenile Services;

(b) ~~The Director of Health and Human Services~~ chief executive officer of the Department of Health and Human Services or his or her designee;

(c) The Commissioner of Education or his or her designee;

(d) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice or his or her designee;

(e) The Executive Director of the Nebraska Association of County Officials or his or her designee;

(f) The probation administrator of the Office of Probation Administration or his or her designee;

(g) One county commissioner or supervisor;

(h) One police chief;

(i) One sheriff;

(j) One separate juvenile court judge;

(k) One county court judge;

(l) One representative of mental health professionals who works directly with juveniles;

(m) Three representatives, one from each congressional district, from community-based, private nonprofit organizations who work with juvenile offenders and their families;

(n) One volunteer who works with juvenile offenders or potential juvenile offenders;

(o) One person who works with an alternative to incarceration program for juveniles;

(p) The director or his or her designee from a youth rehabilitation and treatment center;

(q) The director or his or her designee from a secure youth confinement facility;

(r) The director or his or her designee from a staff secure youth confinement facility;

(s) At least five members who are under twenty-four years of age when appointed;

(t) One person who works directly with juveniles who have learning or emotional difficulties or are abused or neglected;

(u) One member of the Nebraska Commission on Law Enforcement and Criminal Justice;

(v) One county attorney; and

(w) One public defender.

(2) The terms of members appointed pursuant to subdivisions (1)(g) through (1)(w) of this section shall be three years, except that the terms of the initial members of the coalition shall be staggered so that one-third of the members are appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years, as determined by the Governor. A majority of the coalition members, including the chairperson, shall not be full-time employees of federal, state, or local government. At least one-fifth of the coalition members shall be under the age of twenty-four at the time of appointment. Any vacancy on the coalition shall be filled by appointment by the Governor. The coalition shall select a chairperson, a vice-chairperson, and such other officers as it deems necessary.

(3) Members of the coalition shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177.

(4) The coalition may appoint task forces or subcommittees to carry out its work. Task force and subcommittee members shall have knowledge of, responsibility for, or interest in an area related to the duties of the coalition.

Sec. 139. Section 43-2503, Reissue Revised Statutes of Nebraska, is

amended to read:

43-2503 The purposes of the Early Intervention Act shall be to:

(1) Develop and implement a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services for infants or toddlers with disabilities and their families through the collaboration of the Department of Health and Human Services, ~~the Department of Health and Human Services Finance and Support,~~ the State Department of Education, and all other relevant agencies or organizations at the state, regional, and local levels;

(2) Establish and implement a billing system for accessing federal medicaid funds;

(3) Establish and implement services coordination through a community team approach;

(4) Facilitate the coordination of payment for early intervention services from federal, state, local, and private sources including public and private insurance coverage; and

(5) Enhance Nebraska's capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to eligible infants or toddlers with disabilities and their families.

Sec. 140. Section 43-2505, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-2505 For purposes of the Early Intervention Act:

(1) Collaborating agencies means the Department of Health and Human Services, ~~the Department of Health and Human Services Finance and Support,~~ and the State Department of Education;

(2) Developmental delay has the definition found in section 79-1118.01;

(3) Early intervention services may include services which:

(a) Are designed to meet the developmental needs of each eligible infant or toddler with disabilities and the needs of the family related to enhancing the development of their infant or toddler;

(b) Are selected in collaboration with the parent or guardian;

(c) Are provided in accordance with an individualized family service plan;

(d) Meet all applicable federal and state standards; and

(e) Are provided, to the maximum extent appropriate, in natural environments including the home and community settings in which infants and toddlers without disabilities participate;

(4) Eligible infant or toddler with disabilities means a child who needs early intervention services and is two years of age or younger, except that toddlers who reach age three during the school year shall remain eligible throughout that school year. The need for early intervention services is established when the infant or toddler experiences developmental delays or any of the other disabilities described in the Special Education Act;

(5) Federal early intervention program means the federal early intervention program for infants and toddlers with disabilities, 20 U.S.C. 1471 to 1485;

(6) Individualized family service plan means the process, periodically documented in writing, of determining appropriate early intervention services for an eligible infant or toddler with disabilities and his or her family;

(7) Interagency planning team means an organized group of interdisciplinary, interagency representatives, community leaders, and family members in each local community or region;

(8) Lead agency or agencies means the Department of Health and Human Services, ~~the Department of Health and Human Services Finance and Support,~~ the State Department of Education, and any other agencies designated by the Governor for general administration, supervision, and monitoring of programs and activities receiving federal funds under the federal early intervention program and state funds appropriated for early intervention services under the Early Intervention Act; and

(9) Services coordination means a flexible process of interaction facilitated by a services coordinator to assist the family of an eligible infant or toddler with disabilities within a community to identify and meet their needs pursuant to the act. Services coordination under the act shall not duplicate any case management services which an eligible infant or toddler with disabilities and his or her family are already receiving or eligible to receive from other sources.

Sec. 141. Section 43-2507, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-2507 (1) Planning for early intervention services shall

be the responsibility of each collaborating agency. The planning shall address a statewide system of comprehensive, coordinated, family-centered, community-based, and culturally competent early intervention services to all eligible infants or toddlers with disabilities and their families in Nebraska. The statewide system shall include the following minimum components:

- (a) A public awareness program, including a central directory;
- (b) A comprehensive early identification system, including a system for identifying children and making referrals for infants or toddlers who may be eligible for early intervention services;
- (c) Common intake, referral, and assessment processes, procedures, and forms to determine eligibility of infants and toddlers and their families referred for early intervention services;
- (d) An individualized family service plan, including services coordination, for each eligible infant or toddler with disabilities and his or her family;
- (e) A comprehensive system of personnel development;
- (f) A uniform computer data base and reporting system which crosses agency lines; and
- (g) Services coordination to access the following early intervention services: Audiology; family training, counseling, and home visits; health services; medical services only for diagnostic or evaluation purposes; nursing services; nutrition services; occupational therapy; physical therapy; psychological services; social work services; special instruction; speech-language pathology; transportation and related costs that are necessary to enable an eligible infant or toddler with disabilities and his or her family to receive early intervention services; assistive technology devices and assistive technology services; vision services; and hearing services.

(2) Collaborating agencies shall review standards to ensure that personnel are appropriately and adequately prepared and trained to carry out the Early Intervention Act.

(3) Collaborating agencies shall be responsible for designing, supporting, and implementing a statewide training and technical assistance plan which shall address preservice, inservice, and leadership development for service providers and parents of eligible infants and toddlers with disabilities.

(4) Policies and procedures shall be jointly examined and analyzed by the collaborating agencies to satisfy data collection requirements under the federal early intervention program and to assure the confidentiality of the data contained in the statewide system. Notwithstanding any other provision of state law, the collaborating agencies shall be permitted to share information and data necessary to carry out the provisions of the federal early intervention program, including the personal identification or other specific information concerning individual infants, toddlers, or their families, except that the vital and medical records and health information concerning individuals provided to the Department of Health and Human Services ~~or the Department of Health and Human Services Finance and Support~~ may be released only under the laws authorizing the provision of such records and information. Nothing in this section shall prohibit the use of such data to provide for the preparation of reports, fiscal information, or other documents required by the Early Intervention Act, but no information in such reports, fiscal information, or other documents shall be used in a manner which would allow for the personal identification of an individual infant, toddler, or family.

Sec. 142. Section 43-2508, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-2508 (1) The Department of Health and Human Services ~~Finance and Support~~ shall be responsible for providing or contracting for services.

(2) Whenever possible, the medical assistance program prescribed in the Medical Assistance Act shall be used for payment of services coordination.

(3) It is the intent of this section that the department shall apply for and implement a Title XIX medicaid waiver as a way to assist in the provision of services coordination to eligible infants or toddlers with disabilities and their families.

Sec. 143. Section 43-2509, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-2509 The Department of Health and Human Services ~~and the Department of Health and Human Services Finance and Support~~ shall be is responsible for incorporating components required under the federal early intervention program into the state plans developed for the Special Supplemental Nutrition Program for Women, Infants, and Children, the Commodity Supplemental Food Program, the maternal and child health program, and the developmental disabilities program. The ~~departments~~ department shall provide

technical assistance, planning, and coordination related to the incorporation of such components.

Sec. 144. Section 43-2510, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-2510 The Department of Health and Human Services and the Department of Health and Human Services Finance and Support shall be is responsible for incorporating components required under the federal early intervention program into the mental health and developmental disabilities planning responsibilities of the ~~departments~~, department. The ~~departments~~ department shall provide technical assistance, planning, and coordination related to the incorporation of such components.

Sec. 145. Section 43-2511, Reissue Revised Statutes of Nebraska, is amended to read:

43-2511 There is hereby established a statewide billing system for accessing federal medicaid funds for special education and related services provided by school districts. The system shall apply to all students verified with disabilities from date of diagnosis to twenty-one years of age as allowed under the federal Medicare Catastrophic Coverage Act of 1988. The system shall be developed jointly by the Department of Health and Human Services, ~~the Department of Health and Human Services Finance and Support~~, and the State Department of Education. School districts, educational service units, or approved cooperatives providing special education and related services shall be required to participate in the statewide billing system. It is the intent of this section that costs to school districts associated with the implementation of such a system shall be eligible for payment through the medicaid reimbursement rates to be established for each therapy.

Sec. 146. Section 43-2512, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-2512 Each region established pursuant to section 79-1135 shall establish an interagency planning team, which planning team shall include representatives from school districts, social services, health and medical services, parents, and mental health, developmental disabilities, Head Start, and other relevant agencies or persons serving children from birth to age five and their families and parents or guardians. Each interagency planning team shall be responsible for assisting in the planning and implementation of the Early Intervention Act in each local community or region. The Department of Health and Human Services, ~~Finance and Support~~, in collaboration with each regional interagency planning team, shall provide or contract for services coordination.

Sec. 147. Section 43-2515, Reissue Revised Statutes of Nebraska, is amended to read:

43-2515 On or before October 1, 1993, and for each year thereafter, the Department of Health and Human Services ~~Finance and Support~~ and the State Department of Education shall jointly certify to the budget administrator of the budget division of the Department of Administrative Services the amount of federal medicaid funds paid to school districts pursuant to the Early Intervention Act for special education services for children five years of age and older. The General Fund appropriation to the State Department of Education for state special education aid shall be decreased by an amount equal to the amount that would have been reimbursed with state general funds to the school districts through the special education reimbursement process for special education services for children five years of age and older that was paid to school districts or approved cooperatives with federal medicaid funds.

It is the intent of the Legislature that an amount equal to the amount that would have been reimbursed with state general funds to the school districts, certified to the budget administrator, be appropriated from the General Fund to aid in carrying out the provisions of the Early Intervention Act and other related early intervention services.

Sec. 148. Section 43-2605, Reissue Revised Statutes of Nebraska, is amended to read:

43-2605 For purposes of the Quality Child Care Act:

(1) Child care shall mean the care and supervision of children in lieu of parental care and supervision and shall include programs; and

(2) Programs shall mean the programs listed in subdivision ~~(3)~~ (2) of section 71-1910.

Sec. 149. Section 43-2606, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-2606 (1) The Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt and promulgate rules and regulations for mandatory training requirements for providers of child care and school-age-care programs. Such requirements shall include preservice orientation and at least four hours of annual inservice training. All child care programs required



to be licensed under section 71-1911 shall show completion of a preservice orientation approved or delivered by the department prior to receiving a provisional license.

(2) The department shall initiate a system of documenting the training levels of staff in specific child care settings to assist parents in selecting optimal care settings.

(3) The training requirements shall be designed to meet the health, safety, and developmental needs of children and shall be tailored to the needs of licensed providers of child care programs. The training requirements for providers of child care programs shall include, but not be limited to, information on sudden infant death syndrome, shaken baby syndrome, and child abuse.

(4) The department shall provide or arrange for training opportunities throughout the state and shall provide information regarding training opportunities to all providers of child care programs at the time of registration or licensure, when renewing a registration, or on a yearly basis following licensure.

(5) Each provider of child care and school-age-care programs receiving orientation or training shall provide his or her social security number to the department.

(6) The department shall review and provide recommendations to the Governor for updating rules and regulations adopted and promulgated under this section at least every five years.

Sec. 150. Section 43-2616, Reissue Revised Statutes of Nebraska, is amended to read:

43-2616 Notwithstanding any other provision of law, including section 71-1914, family child care homes licensed by the Department of Health and Human Services Regulation and Licensure pursuant to section 71-1911 or by a city, village, or county pursuant to subsection (2) of section 71-1914 may be established and operated in any residential zone within the exercised zoning jurisdiction of any city or village.

Sec. 151. Section 43-2617, Reissue Revised Statutes of Nebraska, is amended to read:

43-2617 A provider of a program shall notify the parents of enrolled children of the outbreak of any communicable disease in any child in the program on the same day the provider is informed of or observes the outbreak. The Department of Health and Human Services ~~in consultation with the Department of Health and Human Services Regulation and Licensure~~ shall develop appropriate procedures to carry out this section.

Sec. 152. Section 43-2620, Reissue Revised Statutes of Nebraska, is amended to read:

43-2620 The Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure,~~ and the State Department of Education shall collaborate in their activities and may:

(1) Encourage the development of comprehensive systems of child care programs and early childhood education programs which promote the wholesome growth and educational development of children, regardless of the child's level of ability;

(2) Encourage and promote the provision of parenting education, developmentally appropriate activities, and primary prevention services by program providers;

(3) Facilitate cooperation between the private and public sectors in order to promote the expansion of child care;

(4) Promote continuing study of the need for child care and early childhood education and the most effective methods by which these needs can be served through governmental and private programs;

(5) Coordinate activities with other state agencies serving children and families;

(6) Strive to make the state a model employer by encouraging the state to offer a variety of child care benefit options to its employees;

(7) Provide training for ~~child care~~ early childhood education providers as authorized in sections 79-1101 to 79-1103;

(8) Develop and support resource and referral services for parents and providers that will be in place statewide by January 1, 1994;

(9) Promote the involvement of businesses and communities in the development of child care throughout the state by providing technical assistance to providers and potential providers of child care;

(10) Establish a voluntary accreditation process for public and private child care and early childhood education providers, which process promotes program quality;

(11) At least biennially, develop an inventory of programs and early childhood education programs provided to children in Nebraska and identify the

number of children receiving and not receiving such services, the types of programs under which the services are received, and the reasons children not receiving the services are not being served; and

(12) Support the identification and recruitment of persons to provide child care for children with special needs.

Sec. 153. Section 43-3305.01, Reissue Revised Statutes of Nebraska, is amended to read:

43-3305.01 ~~Director means the Director~~ Department means the Department of Health and Human Services, or his or her designee.

Sec. 154. Section 43-3314, Reissue Revised Statutes of Nebraska, is amended to read:

43-3314 (1) When the ~~director~~ department or a county attorney or authorized attorney has made reasonable efforts to verify and has reason to believe that a license holder in a case receiving services under Title IV-D of the Social Security Act, as amended, (a) is delinquent on a support order in an amount equal to the support due and payable for more than a three-month period of time, (b) is not in compliance with a payment plan for amounts due as determined by a county attorney, an authorized attorney, or the ~~Department of Health and Human Services~~ department for such past-due support, or (c) is not in compliance with a payment plan for amounts due under a support order pursuant to a court order for such past-due support, and therefor determines to certify the license holder to the appropriate licensing authority, the ~~director,~~ department, county attorney, or authorized attorney shall send written notice to the license holder by certified mail to the last-known address of the license holder or to the last-known address of the license holder available to the court pursuant to section 42-364.13. For purposes of this section, reasonable efforts to verify means reviewing the case file and having written or oral communication with the clerk of the court of competent jurisdiction and with the license holder. Reasonable efforts to verify may also include written or oral communication with custodial parents.

(2) The notice shall specify:

(a) That the ~~director,~~ Department of Health and Human Services, county attorney, or authorized attorney intends to certify the license holder to the Department of Motor Vehicles and to relevant licensing authorities pursuant to subsection (3) of section 43-3318 as a license holder described in subsection (1) of this section;

(b) The court or agency of competent jurisdiction which issued the support order or in which the support order is registered;

(c) That an enforcement action for a support order will incorporate any amount delinquent under the support order which may accrue in the future;

(d) That a license holder who is in violation of a support order can come into compliance by:

(i) Paying current support if a current support obligation exists; and

(ii) Paying all past-due support or, if unable to pay all past-due support and if a payment plan for such past-due support has not been determined, by making payments in accordance with a payment plan determined by the county attorney, the authorized attorney, or the Department of Health and Human Services for such past-due support; and

(e) That within thirty days after issuance of the notice, the license holder may either:

(i) Request administrative review in the manner specified in the notice to contest a mistake of fact. Mistake of fact means an error in the identity of the license holder or an error in the determination of whether the license holder is a license holder described in subsection (1) of this section; or

(ii) Seek judicial review by filing a petition in the court of competent jurisdiction of the county where the support order was issued or registered or, in the case of a foreign support order not registered in Nebraska, the court of competent jurisdiction of the county where the child resides if the child resides in Nebraska or the court of competent jurisdiction of the county where the license holder resides if the child does not reside in Nebraska.

Sec. 155. Section 43-3317, Reissue Revised Statutes of Nebraska, is amended to read:

43-3317 Any person aggrieved by a decision of the ~~Department of Health and Human Services~~ department pursuant to section 43-3316 may, upon exhaustion of the procedures for administrative review provided under the Administrative Procedure Act, seek judicial review within ten days after the issuance of notice of the ~~Department of Health and Human Services'~~ department's decision pursuant to section 43-3316. Notwithstanding subdivision (2) (a) of section 84-917, proceedings for review shall be instituted by filing

a petition in the court of competent jurisdiction of the county where the support order was issued or registered or, in the case of a foreign support order not registered in Nebraska, the court of competent jurisdiction as specified in subdivision (2)(e)(ii) of section 43-3314.

Sec. 156. Section 43-3318, Reissue Revised Statutes of Nebraska, is amended to read:

43-3318 (1) ~~The director,~~ Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction may certify in writing to the Department of Motor Vehicles, relevant licensing authorities, and, if the license holder is a member of the Nebraska State Bar Association, the Counsel for Discipline of the Nebraska Supreme Court, that a license holder is a license holder described in subsection (1) of section 43-3314 if:

(a) The license holder does not timely request either administrative review or judicial review upon issuance of a notice under subsection (2) of section 43-3314, is still a license holder described in subsection (1) of section 43-3314 thirty-one days after issuance of the notice, and does not obtain a written confirmation of compliance from the Department of Health and Human Services, county attorney, or authorized attorney pursuant to section 43-3320 within thirty-one days after issuance of the notice;

(b) The Department of Health and Human Services issues a decision after a hearing that finds the license holder is a license holder described in subsection (1) of section 43-3314, the license holder is still a license holder described in such subsection thirty-one days after issuance of that decision, and the license holder does not seek judicial review of the decision within the ten-day appeal period provided in section 43-3317; or

(c) The court of competent jurisdiction enters a judgment on a petition for judicial review, initiated under either section 43-3315 or 43-3317, that finds the license holder is a license holder described in subsection (1) of section 43-3314.

(2) The court of competent jurisdiction, after providing appropriate notice, may certify a license holder to the Department of Motor Vehicles and relevant licensing authorities if a license holder has failed to comply with subpoenas or warrants relating to paternity or child support proceedings.

(3) If the ~~director,~~ Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction determines to certify a license holder to the appropriate licensing authority, then the ~~director,~~ department, county attorney, authorized attorney, or court of competent jurisdiction shall certify a license holder in the following order and in compliance with the following restrictions:

(a) To the Department of Motor Vehicles to suspend the license holder's operator's license, except the Department of Motor Vehicles shall not suspend the license holder's commercial driver's license or restricted commercial driver's license. If a license holder possesses a commercial driver's license or restricted commercial driver's license, the ~~director,~~ Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction shall certify such license holder pursuant to subdivision (b) of this subsection. If the license holder fails to come into compliance with the support order as provided in section 43-3314 or with subpoenas and warrants relating to paternity or child support proceedings within ten working days after the date on which the license holder's operator's license suspension becomes effective, then the ~~director,~~ department, county attorney, authorized attorney, or court of competent jurisdiction may certify the license holder pursuant to subdivision (b) of this subsection without further notice;

(b) To the relevant licensing authority to suspend the license holder's recreational license once the Game and Parks Commission has operative the electronic or other automated retrieval system necessary to suspend recreational licenses. If the license holder does not have a recreational license and until the Game and Parks Commission has operative the electronic or other automated retrieval system necessary to suspend recreational licenses, the ~~director,~~ department, county attorney, authorized attorney, or court of competent jurisdiction may certify the license holder pursuant to subdivision (c) of this subsection. If the license holder fails to come into compliance with the support order as provided in section 43-3314 or with subpoenas and warrants relating to paternity or child support proceedings within ten working days after the date on which the license holder's recreational license suspension becomes effective, the ~~director,~~ department, county attorney, authorized attorney, or court of competent jurisdiction may certify the license holder pursuant to subdivision (c) of this subsection without further notice; and

(c) To the relevant licensing authority to suspend the license

holder's professional license, occupational license, commercial driver's license, or restricted commercial driver's license.

(4) If the ~~director~~, Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction certifies the license holder to the Department of Motor Vehicles, the Department of Motor Vehicles shall suspend the operator's license of the license holder ten working days after the date of certification. The Department of Motor Vehicles shall without undue delay notify the license holder by certified mail that the license holder's operator's license will be suspended and the date the suspension becomes effective. No person shall be issued an operator's license by the State of Nebraska if at the time of application for a license the person's operator's license is suspended under this section. Any person whose operator's license has been suspended shall return his or her license to the Department of Motor Vehicles within five working days after receiving the notice of the suspension. If any person fails to return the license, the Department of Motor Vehicles shall direct any peace officer to secure possession of the operator's license and to return it to the Department of Motor Vehicles. The peace officer who is directed to secure possession of the license shall make every reasonable effort to secure the license and return it to the Department of Motor Vehicles or shall show good cause why the license cannot be returned. An appeal of the suspension of an operator's license under this section shall be pursuant to section 60-4,105. A license holder whose operator's license has been suspended under this section may apply for an employment driving permit as provided by sections 60-4,129 and 60-4,130, except that the license holder is not required to fulfill the driver improvement or driver education and training course requirements of subsection (2) of section 60-4,130.

(5) Except as provided in subsection (6) of this section as it pertains to a license holder who is a member of the Nebraska State Bar Association, if the ~~director~~, Department of Health and Human Services, county attorney, authorized attorney, or court of competent jurisdiction certifies the license holder to a relevant licensing authority, the relevant licensing authority, notwithstanding any other provision of law, shall suspend the license holder's professional, occupational, or recreational license and the license holder's right to renew the professional, occupational, or recreational license ten working days after the date of certification. The relevant licensing authority shall without undue delay notify the license holder by certified mail that the license holder's professional, occupational, or recreational license will be suspended and the date the suspension becomes effective.

(6) If the ~~director~~, department, county attorney, authorized attorney, or court of competent jurisdiction certifies a license holder who is a member of the Nebraska State Bar Association to the Counsel for Discipline of the Nebraska Supreme Court, the Nebraska Supreme Court may suspend the license holder's license to practice law. It is the intent of the Legislature to encourage all license holders to comply with their child support obligations. Therefore, the Legislature hereby requests that the Nebraska Supreme Court adopt amendments to the rules regulating attorneys, if necessary, which provide for the discipline of an attorney who is delinquent in the payment of or fails to pay his or her child support obligation.

(7) The Department of Health and Human Services, or court of competent jurisdiction when appropriate, shall send by certified mail to the license holder at the license holder's last-known address a copy of any certification filed with the Department of Motor Vehicles or a relevant licensing authority and a notice which states that the license holder's operator's license will be suspended ten working days after the date of certification and that the suspension of a professional, occupational, or recreational license pursuant to subsection (5) of this section becomes effective ten working days after the date of certification.

Sec. 157. Section 43-3319, Reissue Revised Statutes of Nebraska, is amended to read:

43-3319 If the license holder files a motion or application to modify a support order, the ~~Department of Health and Human Services~~, department, county attorney, or authorized attorney, upon notification by the license holder, shall stay the action to certify the license holder under section 43-3318 until disposition of the motion or application by the court or agency of competent jurisdiction. If the license holder requests review of the support order under section 43-512.12, the ~~Department of Health and Human Services~~ department shall stay the action to certify the license holder pending final disposition of the review and modification process.

Sec. 158. Section 43-3320, Reissue Revised Statutes of Nebraska, is amended to read:

43-3320 (1) When a license holder comes into compliance with the support order as provided in section 43-3314, the ~~Department of Health and Human Services,~~ department, county attorney, or authorized attorney shall provide the license holder with written confirmation that the license holder is in compliance.

(2) When a license holder comes into compliance with subpoenas and warrants relating to paternity or child support proceedings, the court of competent jurisdiction shall provide the license holder with written confirmation that the license holder is in compliance.

Sec. 159. Section 43-3323, Reissue Revised Statutes of Nebraska, is amended to read:

43-3323 The ~~Department of Health and Human Services~~ department shall adopt and promulgate rules and regulations to carry out the License Suspension Act.

Sec. 160. Section 43-3325, Reissue Revised Statutes of Nebraska, is amended to read:

43-3325 Nothing in the License Suspension Act shall prevent the ~~Department of Health and Human Services,~~ department, the county attorney, the authorized attorney, or the court of competent jurisdiction from taking other enforcement actions.

Sec. 161. Section 43-3326, Reissue Revised Statutes of Nebraska, is amended to read:

43-3326 The ~~director~~ department shall issue a report to the Legislature on or before January 31 of each year which discloses the number of professional, occupational, or recreational licenses which were suspended and the number which were erroneously suspended and restored as a result of the License Suspension Act for the prior year. The Director of Motor Vehicles shall issue a report to the Legislature on or before January 31 of each year which discloses the number of operators' licenses which were suspended and the number which were erroneously suspended and restored as a result of the License Suspension Act for the prior year.

Sec. 162. Section 43-3327, Reissue Revised Statutes of Nebraska, is amended to read:

43-3327 (1) For purposes of this section:

(a) Authorized attorney has the same meaning as in section 43-1704;

(b) ~~Director means the Director~~ Department means the Department of Health and Human Services; ~~or his or her designee;~~

(c) Genetic testing means genetic testing ordered pursuant to section 43-1414; and

(d) Support order has the same meaning as in section 43-1717.

(2) Notwithstanding any other provision of law regarding the confidentiality of records, the ~~director,~~ department, a county attorney, or an authorized attorney may, without obtaining a court or administrative order:

(a) Compel by subpoena (i) information relevant to establishing, modifying, or enforcing a support order and (ii) genetic testing of an individual relevant to establishing, modifying, or enforcing a support order. Such information includes, but is not limited to, relevant financial records and other relevant records including the name, address, and listing of financial assets or liabilities from public or private entities. If a person fails or refuses to obey the subpoena, the ~~director,~~ department, a county attorney, or an authorized attorney may apply to a judge of the court of competent jurisdiction for an order directing such person to comply with the subpoena. Failure to obey such court order may be punished by the court as contempt of court; and

(b) Obtain access to information contained in the records, including automated data bases, of any state or local agency which is relevant to establishing, modifying, or enforcing a support order or to ordering genetic testing. Such records include, but are not limited to, vital records, state and local tax and revenue records, titles to real and personal property, employment security records, records of correctional institutions, and records concerning the ownership and control of business entities.

(3) The ~~director~~ department shall subpoena or access information as provided in subsection (2) of this section at the request of a state agency of another state which administers Title IV-D of the federal Social Security Act for such information. The ~~Department of Health and Human Services~~ department may charge a fee for this service which does not exceed the cost of providing the service.

(4) All information acquired pursuant to this section is confidential and cannot be disclosed or released except to other agencies which have a legitimate and official interest in the information for carrying out the purposes of this section. A person who receives such information,

subject to the provisions of this subsection on confidentiality and restrictions on disclosure or release, is immune from any civil or criminal liability. A person who cooperates in good faith by providing information or records under this section is immune from any civil or criminal liability. Any person acquiring information pursuant to this section who discloses or releases such information in violation of this subsection is guilty of a Class III misdemeanor. The disclosure or release of such information regarding an individual is a separate offense from information disclosed or released regarding any other individual.

Sec. 163. Section 43-3329, Reissue Revised Statutes of Nebraska, is amended to read:

43-3329 For purposes of sections 43-3328 to 43-3339, the following definitions apply:

(1) Account means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account;

(2) Authorized attorney has the same meaning as found in section 43-1704;

(3) Child support has the same meaning as found in section 43-1705;

(4) Department means the Department of Health and Human Services and if the department designates, includes a county attorney or authorized attorney;

~~(5) Director means the Director of Health and Human Services or his or her designee and, if the director designates, includes a county attorney or authorized attorney;~~

~~(6)~~ (5) Financial institution means every federal or state commercial or savings bank, including savings and loan associations and cooperative banks, federal or state chartered credit unions, benefit associations, insurance companies, safe deposit companies, any money-market mutual fund as defined in section 851(a) of the Internal Revenue Code that seeks to maintain a constant net asset value of one dollar in accordance with 17 C.F.R. 270.2a-7, any broker, brokerage firm, trust company, or unit investment trust, or any other similar entity doing business or authorized to do business in the State of Nebraska;

~~(7)~~ (6) Match means a comparison by automated or other means by name and social security number of a list of obligors provided to a financial institution by the Department of Health and Human Services department and a list of depositors of any financial institution;

~~(8)~~ (7) Medical support has the same meaning as found in section 43-512;

~~(9)~~ (8) Obligor means a person who owes a duty of support pursuant to a support order;

~~(10)~~ (9) Payor includes a person, partnership, limited partnership, limited liability partnership, limited liability company, corporation, or other entity doing business or authorized to do business in the State of Nebraska, including a financial institution, or a department or an agency of state, county, or city government;

~~(11)~~ (10) Spousal support has the same meaning as found in section 43-1715;

~~(12)~~ (11) Support in the definitions of child support, medical support, and spousal support means providing necessary shelter, food, clothing, care, medical support, medical attention, education expenses, or funeral expenses or any other reasonable and necessary expense; and

~~(13)~~ (12) Support order has the same meaning as found in section 43-1717.

Sec. 164. Section 43-3333, Reissue Revised Statutes of Nebraska, is amended to read:

43-3333 (1) In a case which is receiving services under Title IV-D of the federal Social Security Act, as amended, when the ~~director~~ department has made reasonable efforts to verify and has reason to believe payment on a support order is in arrears in an amount equal to the support due and payable for more than a three-month period of time or upon the request of the state agency of another state which administers Title IV-D of the federal Social Security Act, and therefor determines to seize an obligor's property, the ~~director~~ department shall send written notice to the obligor by first-class mail to the last-known address of the obligor or to the last-known address of the obligor available to the court pursuant to section 42-364.13. For purposes of this section, reasonable efforts to verify means reviewing the case file and having written or oral communication with the clerk of the district court.

(2) The notice of arrearage shall:

(a) Specify the court or agency which issued the support order;

(b) Specify the arrearage under the support order which the obligor

owes as of the date of the notice or other date certain;

(c) Specify that any enforcement action will incorporate any arrearage which may accrue in the future;

(d) State clearly, "Your property may be seized without further notice if you do not respond or clear up the arrearage"; and

(e) Specify that within twenty days after the notice is mailed, the obligor may request, in writing, a hearing to contest a mistake of fact. For purposes of this section, mistake of fact means an error in the amount of the arrearage or an error in the identity of the obligor.

(3) If the obligor files a written request for a hearing based upon a mistake of fact within twenty days after the notice is mailed, the department shall provide an opportunity for a hearing and shall stay enforcement action under sections 43-3333 to 43-3337 until the administrative appeal process is completed.

Sec. 165. Section 43-3334, Reissue Revised Statutes of Nebraska, is amended to read:

43-3334 (1) The ~~director~~ department may send a payor an order to withhold and deliver specifically identified property of any kind due, owing, or belonging to an obligor if (a) the ~~director~~ department has reason to and does believe that there is in the possession of the payor property which is due, owing, or belonging to an obligor, (b) payment on a support order is in arrears, (c) the ~~director~~ department sent a notice of arrearage to the obligor pursuant to section 43-3333 at least thirty days prior to sending the notice to withhold and deliver, and (d) no hearing was requested or after a hearing the department determined that an arrearage did exist or that there was no mistake of fact.

(2) The order to withhold and deliver shall state that notice has been mailed to the obligor in accordance with the requirements of subdivision (1)(c) of this section and that the obligor has not requested a hearing or, after a hearing, the department has determined that an arrearage exists or that there was no mistake of fact, the amount in arrears, the social security number of the obligor, the court or agency to which the property is to be delivered, instructions for transmitting the property, and information regarding the requirements found in subsection (3) of this section. The order shall include written questions regarding the property of every description, including whether or not any other person has an ownership interest in the property, and the credits of the obligor which are in the possession or under the control of the payor at the time the order is received.

(3) Upon receipt of an order to withhold and deliver, a payor shall:

(a) Hold property that is subject to the order and that is in the possession or under the control of the payor at the time the order to withhold and deliver was received, to the extent of the amount of the arrearage stated in the order until the payor receives further notice from the ~~director,~~ department;

(b) Answer all of the questions asked of the payor in the order, supply the name and address of any person that has an ownership interest in the property sought to be reached, and return such information to the ~~director~~ department within five business days after receiving the order; and

(c) Upon further notice from the ~~director,~~ department, deliver any property which may be subject to the order to the court or agency designated in the order or release such property or portion thereof.

(4) An order to withhold and deliver shall have the same priority as a garnishment for the support of a person pursuant to subsection (4) of section 25-1056.

(5) If the payor is a financial institution, such financial institution may deduct and retain a processing fee from any amounts turned over to the department under this section. The processing fee shall not exceed ten dollars for each account turned over to the department.

Sec. 166. Section 43-3335, Reissue Revised Statutes of Nebraska, is amended to read:

43-3335 (1) Within five days after the issuance of the order to withhold and deliver, the ~~director~~ department shall send written notice to the obligor by first-class mail. The notice shall be dated and shall specify the payor to which an order to withhold and deliver was sent, the amount due, the steps to be followed to release the property, the time period in which to respond to such notice, and the court or agency of competent jurisdiction which issued the support order.

(2) The obligor may request a hearing to contest a mistake of fact by sending a written request to the ~~director~~ department within seven days after the date of the notice. The department shall provide an opportunity for a hearing within ten days after receipt of the written request and shall stay enforcement actions under sections 43-3333 to 43-3337 until the administrative

appeal process is completed.

Sec. 167. Section 43-3336, Reissue Revised Statutes of Nebraska, is amended to read:

43-3336 (1) If, after receiving the information from the payor in subdivision (3)(b) of section 43-3334, the ~~director~~ department has knowledge that another person has an ownership interest or may claim an ownership interest in any property sought to be reached which is in the possession or under the control of the payor as the property of the obligor, the ~~director~~ department shall send written notice to such person or persons by certified mail, return receipt requested. The notice shall be dated and shall specify why the order to withhold and deliver was issued, the payor to which the order to withhold and deliver was sent, and that the person has a right to request a hearing by the department within fifteen days after the date of the notice to establish that the property or any part thereof is not the property of the obligor. The department shall provide an opportunity for hearing to a person making such request and shall stay enforcement actions under sections 43-3333 to 43-3337 until the administrative appeal process is completed.

(2) Any person other than the obligor claiming an ownership interest in any property sought to be reached which is in the possession or under the control of the payor as the property of the obligor has a right to timely request a hearing by the department to establish that the property or any part thereof is not the property of the obligor. The department shall provide an opportunity for hearing to a person making such request and shall stay enforcement actions under sections 43-3333 to 43-3337 until the administrative appeal process is completed. If the property or any part of the property which is in the possession or under the control of the payor is not the property of the obligor, the payor is discharged as to that property which is not the obligor's.

Sec. 168. Section 43-3338, Reissue Revised Statutes of Nebraska, is amended to read:

43-3338 Any person aggrieved by a determination of the department under sections 43-3328 to 43-3339, upon exhaustion of the procedures for administrative review provided in such sections, or the ~~director~~ department may seek judicial review in the court in which the support order was issued or registered.

Sec. 169. Section 43-3342.04, Reissue Revised Statutes of Nebraska, is amended to read:

43-3342.04 (1) The Title IV-D Division shall establish a Customer Service Unit. In hiring the initial staff for the unit, a hiring preference shall be given to employees of the clerks of the district court. The duties of the Customer Service Unit include, but are not limited to:

(a) Providing account information as well as addressing inquiries made by customers of the State Disbursement Unit; and

(b) Administering two statewide toll-free telephone systems, one for use by employers and one for use by all other customers, to provide responses to inquiries regarding income withholding, the collection and disbursement of support order payments made to the State Disbursement Unit, and other child support enforcement issues, including establishing a call center with sufficient telephone lines, a voice response unit, and adequate personnel available during normal business hours to ensure that responses to inquiries are made by the division's personnel or the division's designee.

(2) The physical location of the Customer Service Unit shall be in Nebraska and shall result in the hiring of a number of new employees or contractor's staff equal to at least one-fourth of one percent of the labor force in the county or counties in which the Customer Service Unit is located. Customer service staff responsible for providing account information related to the State Disbursement Unit may be located at the same location as the State Disbursement Unit.

(3) The ~~Director of Health and Human Services~~ department shall issue a report to the Governor and to the Legislature on or before January 31 of each year which discloses information relating to the operation of the State Disbursement Unit for the preceding calendar year including, but not limited to:

(a) The number of transactions processed by the State Disbursement Unit;

(b) The dollar amount collected by the State Disbursement Unit;

(c) The dollar amount disbursed by the State Disbursement Unit;

(d) The percentage of identifiable collections disbursed within two business days;

(e) The percentage of identifiable collections that are matched to the correct case;

(f) The number and dollar amount of insufficient funds checks



received by the State Disbursement Unit;

(g) The number and dollar amount of insufficient funds checks received by the State Disbursement Unit for which restitution is subsequently made to the State Disbursement Unit;

(h) The number of incoming telephone calls processed through the Customer Service Unit;

(i) The average length of incoming calls from employers;

(j) The average length of incoming calls from all other customers;

(k) The percentage of incoming calls resulting in abandonment by the customer;

(l) The percentage of incoming calls resulting in a customer receiving a busy signal;

(m) The average holding time for all incoming calls; and

(n) The percentage of calls handled by employees of the Customer Service Unit that are resolved within twenty-four hours.

Sec. 170. Section 43-3401, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3401 The Early Childhood Interagency Coordinating Council is created. The council shall advise and assist the collaborating agencies in carrying out the provisions of the Early Intervention Act, the Quality Child Care Act, sections 79-1101 to 79-1104, and other early childhood care and education initiatives under state supervision. Membership and activities of the council shall comply with all applicable provisions of federal law. Members of the council shall be appointed by the Governor and shall include, but not be limited to:

(1) Parents of children who require early intervention services, early childhood special education, and other early childhood care and education services; and

(2) Representatives of school districts, social services, health and medical services, family child care and center-based early childhood care and education programs, agencies providing training to staff of child care programs, resource and referral agencies, mental health services, developmental disabilities services, educational service units, Head Start, higher education, physicians, the Legislature, business persons, and the collaborating agencies.

Terms of the members shall be for three years, and a member shall not serve more than two consecutive three-year terms. Members shall be reimbursed for their actual and necessary expenses, including child care expenses, with funds provided for such purposes through the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104.

Members of the Nebraska Interagency Coordinating Council serving on July 13, 2000, shall constitute the Early Childhood Interagency Coordinating Council and shall serve for the remainder of their terms. The Governor shall make additional appointments as required by this section and to fill vacancies as needed. The Governor shall set the initial terms of additional appointees to result in staggered terms for members of the council. The Department of Health and Human Services ~~Finance and Support~~, ~~the Department of Health and Human Services Regulation and Licensure~~, and the State Department of Education shall provide and coordinate staff assistance to the council.

Sec. 171. Section 43-3402, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3402 With respect to the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104, the Early Childhood Interagency Coordinating Council shall serve in an advisory capacity to state agencies responsible for early childhood care and education, including care for school-age children, in order to:

(1) Promote the policies set forth in the Early Intervention Act, the Quality Child Care Act, and sections 79-1101 to 79-1104;

(2) Facilitate collaboration with the federally administered Head Start program;

(3) Make recommendations to the Department of Health and Human Services, ~~the Department of Health and Human Services Finance and Support~~, ~~the Department of Health and Human Services Regulation and Licensure~~, the State Department of Education, and other state agencies responsible for the regulation or provision of early childhood care and education programs on the needs, priorities, and policies relating to such programs throughout the state;

(4) Make recommendations to the lead agency or agencies which prepare and submit applications for federal funding;

(5) Review new or proposed revisions to rules and regulations governing the registration or licensing of early childhood care and education programs;

(6) Study and recommend additional resources for early childhood care and education programs; and

(7) Report biennially to the Governor and Legislature on the status of early intervention and early childhood care and education in the state. Such report shall include (a) the number of license applications received under section 71-1911, (b) the number of such licenses issued, (c) the number of such license applications denied, (d) the number of complaints investigated regarding such licensees, (e) the number of such licenses revoked, (f) the number and dollar amount of civil penalties levied pursuant to section 71-1920, and (g) information which may assist the Legislature in determining the extent of cooperation provided to the Department of Health and Human Services ~~Regulation and Licensure~~ by other state and local agencies pursuant to section 71-1914.

Sec. 172. Section 43-3810, Revised Statutes Cumulative Supplement, 2006, is amended to read:

43-3810 The ~~Director of Health and Human Services~~ chief executive officer of the department or his or her designee shall meet as necessary with consular officials to discuss, clarify, and coordinate activities, ideas and concerns of a high-profile nature, timely media attention, and joint prevention efforts regarding the protection and well-being of foreign national minors and minors holding dual citizenship and families.

Sec. 173. Section 44-771, Reissue Revised Statutes of Nebraska, is amended to read:

44-771 Hospital shall mean an institution licensed as a hospital by the Department of Health and Human Services ~~Regulation and Licensure~~ and defined in section 71-419.

Sec. 174. Section 44-772, Reissue Revised Statutes of Nebraska, is amended to read:

44-772 Substance abuse treatment center shall mean an institution licensed as a substance abuse treatment center by the Department of Health and Human Services ~~Regulation and Licensure~~ and defined in section 71-430, which provides a program for the inpatient or outpatient treatment of alcoholism pursuant to a written treatment plan approved and monitored by a physician and which is affiliated with a hospital under a contractual agreement with an established system for patient referral.

Sec. 175. Section 44-773, Reissue Revised Statutes of Nebraska, is amended to read:

44-773 Outpatient program shall refer to a program which is licensed or certified by the Department of Health and Human Services ~~Regulation and Licensure~~ or the Division of Behavioral Health ~~Services~~ of the Department of Health and Human Services to provide specified services to persons suffering from the disease of alcoholism.

Sec. 176. Section 44-774, Reissue Revised Statutes of Nebraska, is amended to read:

44-774 Certified shall mean approved by the Division of Behavioral Health ~~Services~~ of the Department of Health and Human Services to render specific types or levels of care to the person suffering from the disease of alcoholism.

Sec. 177. Section 44-782, Reissue Revised Statutes of Nebraska, is amended to read:

44-782 No insurance company, health maintenance organization, or other health insurance provider shall deny payment for treatment of mental or nervous disorders under a policy, contract, certificate, or other evidence of coverage issued or delivered in Nebraska on the basis that the hospital or state institution licensed as a hospital by the Department of Health and Human Services ~~Regulation and Licensure~~ and defined in section 71-419 providing such treatment is publicly funded and charges are reduced or no fee is charged depending on the patient's ability to pay.

Sec. 178. Section 44-793, Reissue Revised Statutes of Nebraska, is amended to read:

44-793 (1) On or after January 1, 2000, notwithstanding section 44-3,131, any health insurance plan delivered, issued, or renewed in this state (a) if coverage is provided for treatment of mental health conditions other than alcohol or substance abuse, (i) shall not establish any rate, term, or condition that places a greater financial burden on an insured for access to treatment for a serious mental illness than for access to treatment for a physical health condition and (ii) if an out-of-pocket limit is established for physical health conditions, shall apply such out-of-pocket limit as a single comprehensive out-of-pocket limit for both physical health conditions and mental health conditions, or (b) if no coverage is to be provided for treatment of mental health conditions, shall provide clear and prominent notice of such noncoverage in the plan.

(2) If a health insurance plan provides coverage for serious mental illness, the health insurance plan shall cover health care rendered for treatment of serious mental illness (a) by a mental health professional, (b) by a person authorized by the rules and regulations of the Department of Health and Human Services ~~Regulation and Licensure~~ to provide treatment for mental illness, (c) in a mental health center as defined in section 71-423, or (d) in any other health care facility licensed under the Health Care Facility Licensure Act that provides a program for the treatment of a mental health condition pursuant to a written plan. The issuer of a health insurance plan may require a health care provider under this subsection to enter into a contract as a condition of providing benefits.

(3) The Director of Insurance may disapprove any plan that the director determines to be inconsistent with the purposes of this section.

Sec. 179. Section 44-1102, Reissue Revised Statutes of Nebraska, is amended to read:

44-1102 For purposes of the Viatical Settlements Act:

(1) Advertising means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed before the public, directly or indirectly, for the purpose of creating an interest in or inducing a person to sell a life insurance policy pursuant to a viatical settlement contract;

(2) Business of viatical settlements means an activity involved in, but not limited to, the offering, solicitation, negotiation, procurement, effectuation, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, or hypothecating of viatical settlement contracts or purchase agreements;

(3) Chronically ill means (a) being unable to perform at least two activities of daily living, such as eating, toileting, transferring, bathing, dressing, or continence; (b) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or (c) having a level of disability similar to that described in subdivision (3) (a) of this section as determined by the ~~Director~~ Department of Health and Human Services;

(4) Department means the Department of Insurance;

(5) Director means the Director of Insurance;

(6) Financing entity means an underwriter, a placement agent, a lender, a purchaser of securities, a purchaser of a policy or certificate from a viatical settlement provider, a credit enhancer, or any entity that has a direct ownership in a policy or certificate that is the subject of a viatical settlement contract (a) whose principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies and (b) who has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts. Financing entity does not include a nonaccredited investor or viatical settlement purchaser;

(7) Fraudulent viatical settlement act means an act or omission committed by any person who, knowingly and with intent to defraud and for the purpose of depriving another of property or for pecuniary gain, commits, or permits his or her employees or agents to commit, any of the following acts:

(a) Presenting, causing to be presented, or preparing with the knowledge or belief that it will be presented to or by a viatical settlement provider, viatical settlement broker, viatical settlement purchaser, financing entity, insurer, insurance broker, insurance agent, or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one or more of the following:

(i) An application for the issuance of a viatical settlement contract or insurance policy;

(ii) The underwriting of a viatical settlement contract or insurance policy;

(iii) A claim for payment or benefit pursuant to a viatical settlement contract or insurance policy;

(iv) Premiums paid on an insurance policy;

(v) Payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract or insurance policy;

(vi) The reinstatement or conversion of an insurance policy;

(vii) The solicitation, offer, effectuation, or sale of a viatical settlement contract or insurance policy;

(viii) The issuance of written evidence of a viatical settlement contract or insurance;

(ix) A financing transaction; or  
 (x) Employing any device, scheme, or artifice to defraud related to viaticated policies;

(b) In the furtherance of a fraud or to prevent the detection of a fraud:

(i) Removing, concealing, altering, destroying, or sequestering from the director the assets or records of a licensee or other person engaged in the business of viatical settlements;

(ii) Misrepresenting or concealing the financial condition of a licensee, financing entity, insurer, or other person;

(iii) Transacting the business of viatical settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements; or

(iv) Filing with the director or the chief insurance regulatory official of another jurisdiction a document containing false information or otherwise concealing information about a material fact from the director;

(c) Presenting, causing to be presented, or preparing with the knowledge or reason to believe that it will be presented, to or by a viatical settlement provider, viatical settlement broker, insurer, insurance agent, financing entity, viatical settlement purchaser, or any other person, in connection with a viatical settlement transaction or insurance transaction, an insurance policy, knowing the policy was fraudulently obtained by the insured, owner, or any agent thereof;

(d) Embezzlement, theft, misappropriation, or conversion of money, funds, premiums, credits, or other property of a viatical settlement provider, insurer, insured, viator, insurance policyowner, or any other person engaged in the business of viatical settlements or insurance; or

(e) Attempting to commit, assisting, aiding, or abetting in the commission of, or conspiring to commit the acts or omissions specified in this subdivision;

(8) Person means a natural person or a legal entity, including an individual, a partnership, a limited liability company, an association, a trust, or a corporation;

(9) Policy means an individual or group policy, group certificate, contract, or arrangement of life insurance affecting the rights of a resident of this state or bearing a reasonable relation to this state, regardless of whether delivered or issued for delivery in this state;

(10) Related provider trust means a titling trust or other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. The trust shall have a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the director as if those records and files were maintained directly by the licensed viatical settlement provider;

(11) Special purpose entity means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide, either directly or indirectly, access to institutional capital markets for a financing entity or licensed viatical settlement provider;

(12) Terminally ill means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or less;

(13) Viatical settlement broker means a person that on behalf of a viator and for a fee, commission, or other valuable consideration offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers. Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator. Viatical settlement broker includes a licensed life insurance producer that meets the requirements of section 44-1103. Viatical settlement broker does not include an attorney, a certified public accountant, or a financial planner accredited by a nationally recognized accreditation agency who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser;

(14) Viatical settlement contract means a written agreement establishing the terms under which compensation or anything of value will be paid, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership or any portion of the insurance policy or certificate of insurance. A viatical

settlement contract also includes a contract for a loan or other financing transaction secured primarily by an individual or group life insurance policy, other than a loan by a life insurance company pursuant to the terms of the life insurance contract, or a loan secured by the cash value of a policy. A viatical settlement contract includes an agreement to transfer ownership or change the beneficiary designation at a later date regardless of the date that compensation is paid to the viator;

(15) Viatical settlement provider means a person, other than a viator, that enters into or effectuates a viatical settlement contract. Viatical settlement provider does not include:

(a) A bank, savings bank, savings and loan association, credit union, or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;

(b) The issuer of a life insurance policy providing accelerated benefits under and pursuant to the contract;

(c) An authorized or eligible insurer that provides stop-loss coverage to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;

(d) A natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;

(e) A financing entity;

(f) A special purpose entity;

(g) A related provider trust;

(h) A viatical settlement purchaser; or

(i) An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501, or Rule 144A of the federal Securities Act of 1933, as the act existed on September 1, 2001, who purchases a viaticated policy from a viatical settlement provider;

(16) Viatical settlement purchaser means a person who gives a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. Viatical settlement purchaser does not include:

(a) A licensee under the Viatical Settlements Act;

(b) An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501, or Rule 144A of the federal Securities Act of 1933, as the act existed on September 1, 2001;

(c) A financing entity;

(d) A special purpose entity; or

(e) A related provider trust;

(17) Viaticated policy means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract; and

(18) Viator means the owner of a life insurance policy or a certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract. For purposes of the Viatical Settlements Act, a viator is not limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except as specifically addressed. Viator does not include:

(a) A licensee under the act;

(b) An accredited investor or qualified institutional buyer as defined respectively in Regulation D, Rule 501, or Rule 144A of the federal Securities Act of 1933, as the act existed on September 1, 2001;

(c) A financing entity;

(d) A special purpose entity; or

(e) A related provider trust.

Sec. 180. Section 44-2835, Reissue Revised Statutes of Nebraska, is amended to read:

44-2835 (1) Each malpractice claim settled or adjudicated to final judgment against a health care provider under the Nebraska Hospital-Medical Liability Act shall be reported to the director by the plaintiff's attorney and by the health care provider or his or her insurer or risk manager within sixty days following final disposition of the claim. Such report to the director shall state the following:

(a) The nature of the claim;

(b) The alleged injury and the damages asserted;

(c) Attorney's fees and expenses incurred in connection with the claim or defense; and

(d) The amount of any settlement or judgment.

(2) The director shall forward the name of every health care provider, except a hospital, against whom a settlement has been made or judgment has been rendered under the act to the Department of Health and Human Services ~~Regulation and Licensure~~ for such action, if any, as it deems to be appropriate under the circumstances.

Sec. 181. Section 44-2847, Reissue Revised Statutes of Nebraska, is amended to read:

44-2847 (1) Medical review panels shall be concerned only with the determination of the questions set forth in section 44-2843. Such panels shall not consider or report on disputed questions of law.

(2) To provide for uniformity of procedure, the ~~Director of Regulation and Licensure~~ Department of Health and Human Services may appoint a doctor of medicine from the members of the Board of Medicine and Surgery who may sit with each panel as an observer and as an adviser on procedure but without a vote.

Sec. 182. Section 44-2901, Reissue Revised Statutes of Nebraska, is amended to read:

44-2901 Any three or more hospitals as defined in section 71-419, which are located in this state and licensed by the Department of Health and Human Services, ~~Regulation and Licensure~~, may incorporate a mutual insurance association to insure member hospitals and their officers, directors, employees, and volunteer workers against liability arising from rendering, or failing to render, professional services in the treatment or care of patients by hospitals and their agents and employees or by member physicians.

Sec. 183. Section 44-2904, Reissue Revised Statutes of Nebraska, is amended to read:

44-2904 Any hospital, whether within or without the state, shall be qualified to become a member of a hospital association incorporated under sections 44-2901 to 44-2918 if it is licensed either by the Department of Health and Human Services ~~Regulation and Licensure~~ or by the corresponding authority in the state in which the hospital is located, except that no hospital outside of this state may become a member of such an association until one year after March 31, 1976, nor may any risks outside this state be insured under the provisions of sections 44-2901 to 44-2918 until one year after the issuance of a certificate of authority to transact insurance business by the Department of Insurance. All such risks shall be subject to the prior approval of the Director of Insurance.

In determining whether or not to grant approval for the insuring of risks outside of Nebraska, the Director of Insurance shall consider the following: (1) Limits of indemnity; (2) past and present loss experience of the hospital to be insured; (3) statutes, court decisions, and the insurance climate of the jurisdiction in which the risk is located; and (4) such other information as the director may deem relevant.

Sec. 184. Section 44-32,119, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,119 (1) Upon receipt of an application for issuance of a certificate of authority, the Director of Insurance shall forthwith transmit copies of such application and accompanying documents to the ~~Director of Regulation and Licensure~~, Department of Health and Human Services.

(2) The ~~Director of Regulation and Licensure~~ Department of Health and Human Services shall determine whether the applicant has complied with sections 44-32,126 to 44-32,128 with respect to health care services to be furnished.

(3) Within forty-five days of receipt of the application for issuance of a certificate of authority, the ~~Director of Regulation and Licensure~~ Department of Health and Human Services shall certify to the Director of Insurance that the proposed health maintenance organization meets the requirements of such sections or notify the Director of Insurance that the health maintenance organization does not meet such requirements and specify in what respects it is deficient.

Sec. 185. Section 44-32,120, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,120 The Director of Insurance shall, within forty-five days of receipt of certification or notice of deficiencies pursuant to section 44-32,119, issue a certificate of authority to any person filing a completed application upon receiving the prescribed fees and being satisfied that:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations;

(2) Any deficiencies identified by the ~~Director of Regulation and Licensure~~ Department of Health and Human Services have been corrected and the ~~Director of Regulation and Licensure~~ department has certified to the

Director of Insurance that the health maintenance organization's proposed plan of operation meets the requirements of sections 44-32,126 to 44-32,128;

(3) The health maintenance organization will effectively provide or arrange for the provision of basic health care services on a prepaid basis, through insurance or otherwise, except to the extent of reasonable requirements for copayments or deductibles; and

(4) The health maintenance organization is in compliance with sections 44-32,138 to 44-32,148.

A certificate of authority shall be denied only after the Director of Insurance complies with the requirements of section 44-32,153.

Sec. 186. Section 44-32,127, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,127 Each health maintenance organization shall have an ongoing, internal quality assurance program to monitor and evaluate its health care services, including primary and specialist physician services, and ancillary and preventive health care services across all institutional and noninstitutional settings. The quality assurance program shall include, but not be limited to, the following:

(1) A written statement of goals and objectives which emphasizes improved health status in evaluating the quality of care rendered to enrollees;

(2) A written quality assurance plan which describes the following:

(a) The health maintenance organization's scope and purpose in quality assurance;

(b) The organizational structure responsible for quality assurance activities;

(c) Contractual arrangements, when appropriate, for delegation of quality assurance activities;

(d) Confidentiality policies and procedures;

(e) A system of ongoing evaluation activities;

(f) A system of focused evaluation activities;

(g) A system for credentialing providers and performing peer review activities; and

(h) Duties and responsibilities of the designated physician responsible for the quality assurance activities;

(3) A written statement describing the system of ongoing quality assurance activities, including, but not limited to, the following:

(a) Problem assessment, identification, selection, and study;

(b) Corrective action, monitoring, evaluation, and reassessment; and

(c) Interpretation and analysis of patterns of care rendered to individual patients by individual providers;

(4) A written statement describing the system of focused quality assurance activities based on representative samples of the enrolled population which identifies method of topic selection, study, data collection, analysis, interpretation, and report format; and

(5) A written plan for taking appropriate corrective action whenever, as determined by the quality assurance program, inappropriate or substandard services have been provided or services which should have been furnished have not been provided.

Each health maintenance organization shall record proceedings of formal quality assurance program activities and maintain documentation in a confidential manner. Quality assurance program minutes shall be available to the ~~Director of Regulation and Licensure~~, Department of Health and Human Services. Each health maintenance organization shall also establish a mechanism for periodic reporting of quality assurance program activities to the governing body of the health maintenance organization, the providers, and appropriate staff.

Sec. 187. Section 44-32,128, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,128 Each health maintenance organization shall ensure the use and maintenance of an adequate patient record system which facilitates documentation and retrieval of clinical information for the purpose of the health maintenance organization evaluating continuity and coordination of patient care and assessing the quality of health and medical care provided to enrollees. Enrollee clinical records shall be available to the ~~Director of Regulation and Licensure~~ Department of Health and Human Services or an authorized designee for examination and review to ascertain compliance with section 44-32,127 or as deemed necessary by the ~~Director of Regulation and Licensure~~, department.

Sec. 188. Section 44-32,134, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,134 (1) Every health maintenance organization shall file

annually, on or before March 1, an annual financial statement with the Director of Insurance, with a copy to the ~~Director of Regulation and Licensure~~, Department of Health and Human Services, covering the preceding calendar year. The annual financial statement shall be on forms prescribed by the Director of Insurance and shall be prepared in accordance with annual statement instructions and accounting practices and procedures manuals as prescribed by the director which conform substantially to the annual statement instructions and the Accounting Practices and Procedures Manuals of the National Association of Insurance Commissioners.

(2) Every health maintenance organization shall file annually, on or before March 1, with the Director of Insurance, with a copy to the ~~Director of Regulation and Licensure~~, department:

(a) A list of the providers who have executed a contract that complies with section 44-32,141; and

(b) A description of the grievance procedures, the total number of grievances handled through such procedures, a compilation of the causes underlying those grievances, and a summary of the final disposition of those grievances.

(3) Every health maintenance organization shall file annually, on or before June 1, audited financial statements with the Director of Insurance, with a copy to the ~~Director of Regulation and Licensure~~, department.

(4) The Director of Insurance may require such additional reports as are deemed necessary and appropriate to carry out his or her duties under the Health Maintenance Organization Act.

Sec. 189. Section 44-32,136, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,136 Each health maintenance organization shall establish and maintain a grievance procedure to provide for the resolution of grievances initiated by enrollees. The procedure shall be approved by the Director of Insurance after consultation with the ~~Director of Regulation and Licensure~~, Department of Health and Human Services. The Director of Insurance or the ~~Director of Regulation and Licensure~~ department may examine the grievance procedure. The health maintenance organization shall maintain records regarding grievances received since the date of the last examination.

Sec. 190. Section 44-32,152, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,152 (1) The Director of Insurance may make an examination of the affairs of any health maintenance organization in accordance with the Insurers Examination Act and any provider with whom such health maintenance organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this state. The ~~Director of Regulation and Licensure~~ Department of Health and Human Services may make an examination concerning the quality assurance program of any health maintenance organization and any provider with whom such health maintenance organization has contracts, agreements, or other arrangements as often as is reasonably necessary for the protection of the interests of the people of this state but not less frequently than once every three years.

(2) Every health maintenance organization and provider shall submit its books and records for an examination and in every way facilitate the completion of the examination. For the purpose of an examination, the Director of Insurance and the ~~Director of Regulation and Licensure~~ Department of Health and Human Services may administer oaths to and examine the officers and agents of the health maintenance organization and the principals of a provider concerning the business. An examination shall not involve the confidential communications between physicians and patients.

(3) The expenses of an examination shall be assessed against the health maintenance organization being examined and remitted to the Director of Insurance or the ~~Director of Regulation and Licensure~~ Department of Health and Human Services for whom the examination is being conducted in the manner provided in the Insurers Examination Act.

(4) In lieu of an examination, the Director of Insurance or the ~~Director of Regulation and Licensure~~ Department of Health and Human Services may accept the report of an examination made by the insurance commissioner, insurance director, insurance superintendent, or equivalent official or director of health or equivalent official of another state.

Sec. 191. Section 44-32,153, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,153 If the Director of Insurance finds that any of the conditions listed in this section exist, any certificate of authority issued under the Health Maintenance Organization Act may be suspended or revoked or any application for a certificate of authority may be denied:

(1) The health maintenance organization is operating significantly



in contravention of its basic organizational document or in a manner contrary to that described in any other information submitted under section 44-32,117 unless amendments to such submissions have been filed with and approved by the director;

(2) The health maintenance organization issues an evidence of coverage or uses a schedule of charges for health care services which does not comply with the requirements of sections 44-32,129 to 44-32,133 and 44-32,149;

(3) The health maintenance organization does not provide or arrange for basic health care services;

(4) The ~~Director of Regulation and Licensure~~ Department of Health and Human Services certifies to the Director of Insurance that:

(a) The health maintenance organization does not meet the requirements of subsection (2) of section 44-32,119; or

(b) The health maintenance organization is unable to fulfill its obligations to furnish health care services;

(5) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;

(6) The health maintenance organization has failed to correct, within the time prescribed by section 44-32,154, any deficiency occurring due to such health maintenance organization's prescribed minimum net worth being impaired;

(7) The health maintenance organization has failed to implement grievance procedures in a reasonable manner to resolve valid complaints;

(8) The health maintenance organization or any person on its behalf has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;

(9) The continued operation of the health maintenance organization would be hazardous to its enrollees; or

(10) The health maintenance organization has otherwise failed substantially to comply with the act.

Sec. 192. Section 44-32,156, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,156 Suspension or revocation of a certificate of authority, the denial of an application for a certificate, or the imposition of an administrative penalty shall be by written order and shall be sent by the Director of Insurance to the health maintenance organization or applicant by certified or registered mail and to the ~~Director of Regulation and Licensure-~~ Department of Health and Human Services. The written order shall state the grounds, charges, or conduct on which the suspension, revocation, denial, or administrative penalty is based. The health maintenance organization or applicant may in writing request a hearing within thirty days from the date of mailing of the order. If no written request is made, such order shall be final upon the expiration of thirty days.

Sec. 193. Section 44-32,157, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,157 (1) If the health maintenance organization or applicant requests a hearing pursuant to section 44-32,156, the Director of Insurance shall issue a written notice of hearing and send it to the health maintenance organization or applicant by certified or registered mail and to the ~~Director of Regulation and Licensure~~ Department of Health and Human Services stating:

(a) A specific time for the hearing, which may not be less than twenty nor more than thirty days after mailing of the notice of hearing; and

(b) A specific place for the hearing, which may be either in Lancaster County or in the county where the health maintenance organization's or applicant's principal place of business is located.

(2) If a hearing is requested, the ~~Director of Regulation and Licensure~~ chief executive officer of the Department of Health and Human Services or his or her designated representative shall be in attendance and shall participate in the proceedings. The recommendations and findings of the ~~Director of Regulation and Licensure~~ chief executive officer with respect to matters relating to the quality of health care services provided in connection with any decision regarding denial, suspension, or revocation of a certificate of authority shall be conclusive and binding upon the Director of Insurance.

(3) After the hearing or upon failure of the health maintenance organization to appear at such hearing, the Director of Insurance shall take whatever action he or she deems necessary based on written findings and shall mail his or her decision to the health maintenance organization or applicant with a copy to the ~~Director of Regulation and Licensure-~~ Department of Health and Human Services. The action of the Director of Insurance and the recommendation and findings of the ~~Director of Regulation and Licensure~~ chief executive officer may be appealed, and the appeal shall be in accordance with

the Administrative Procedure Act. The act shall apply to proceedings under this section to the extent it is not in conflict with this section.

Sec. 194. Section 44-32,163, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,163 Every health maintenance organization subject to the Health Maintenance Organization Act shall pay to the director the following fees:

- (1) For filing an application for a certificate of authority or amendment thereto, three hundred dollars;
- (2) For filing an amendment to the organizational documents that requires approval, twenty dollars;
- (3) For filing each annual report, two hundred dollars; and
- (4) For renewing a certificate of authority, one hundred dollars.

Fees charged under this section shall be distributed one-half to the Director of Insurance and one-half to the Department of Health and Human Services. ~~Regulation and Licensure.~~ All fees or other assessments transmitted to the Department of Health and Human Services ~~Regulation and Licensure~~ pursuant to the act shall be remitted to the state treasury for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Cash Fund. There shall be appropriated from money credited to the fund pursuant to this section such amounts as are available to pay expenses considered incident to the administration of the act.

Sec. 195. Section 44-32,165, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,165 If the Director of Insurance or the ~~Director of Regulation and Licensure~~ Department of Health and Human Services has for any reason cause to believe that any violation of the Health Maintenance Organization Act has occurred or is threatened, the Director of Insurance or the ~~Director of Regulation and Licensure~~ Department of Health and Human Services may give notice to the health maintenance organization and to the representatives or other persons who appear to be involved in such suspected violation to arrange a conference with the alleged violators or their authorized representatives for the purpose of attempting to ascertain the facts relating to such suspected violation and, if it appears that any violation has occurred or is threatened, to arrive at an adequate and effective means of correcting or preventing such violation. Proceedings under this section shall not be governed by any formal procedural requirements and may be conducted in such manner as the Director of Insurance or the ~~Director of Regulation and Licensure~~ Department of Health and Human Services deems appropriate under the circumstances. Unless consented to by the health maintenance organization, no rule or order may result from a conference until the requirements of this section are satisfied.

Sec. 196. Section 44-32,176, Reissue Revised Statutes of Nebraska, is amended to read:

44-32,176 The ~~Director of Regulation and Licensure,~~ Department of Health and Human Services, in carrying out his ~~or her~~ obligations under the Health Maintenance Organization Act, may contract with qualified persons to make recommendations concerning the determinations required to be made, ~~by him or her.~~ Such recommendations may be accepted in full or in part by the ~~Director of Regulation and Licensure,~~ department.

Sec. 197. Section 44-4109.01, Reissue Revised Statutes of Nebraska, is amended to read:

44-4109.01 Policies or contracts authorized by sections 44-4109 and 44-4110 are subject to the following requirements:

(1) A prospective insured shall be provided information about the terms and conditions of the insurance arrangement to enable him or her to make an informed decision about accepting a system of health care delivery. If the insurance arrangement is described orally to a prospective insured, the description shall use easily understood, truthful, and objective terms. All written descriptions shall be in a readable and understandable format. Specific items that shall be included are:

(a) Coverage provisions, benefits, and any exclusions by category of service, provider, or physician and, if applicable, by specific service;

(b) Any prior authorization or other review requirements, including preauthorization review, concurrent review, postservice review, and postpayment review, the manner in which an insured may obtain review of a denial of coverage, and the nature of any liability an insured may incur if the insured does not comply with the authorization requirements of the policy, contract, certificate, or other materials; and

(c) Information on the insured's financial responsibility for payment for deductibles, coinsurance, or other noncovered services;

(2) If an insurer conducts customer satisfaction surveys concerning

an insurance arrangement, the results of such surveys shall be made available upon request to existing and prospective participants in insurance arrangements;

(3) The policy, contract, certificate, or other materials shall establish a mechanism by which a committee of preferred providers will be involved in reviewing and advising the insurance arrangement about medical policy, including coverage of new technology and procedures, quality and credentialing criteria, and medical management procedures;

(4) All policies or contracts shall have a system for credentialing participating preferred providers and shall allow all providers within the insurance arrangement's geographic service area to apply for such credentials periodically and not less than annually. The credentialing process:

(a) Shall begin upon application of a provider for inclusion in the policy or contract; and

(b) Shall be based solely on quality, accessibility, or economic considerations and shall be applied in accordance with reasonable business judgment.

Credentialing standards or criteria shall be made available, upon request, to providers and insureds;

(5) If the policy or contract is with an organized delivery system formed by insurers, hospitals, physicians, or allied health professionals, or a combination of such entities, participation by a provider may be limited to a participant in the organized delivery system or to providers having staff privileges at a particular health care facility;

(6) If an insurer or a participant in an insurance arrangement refuses to contract with a provider, the provider shall be permitted to appeal the adverse decision. A person conducting the provider-appeal procedure may be employed by the insurer or participant in an insurance arrangement if the person does not initially participate in the decision to take adverse action against the provider. The provider-appeal procedure shall include, but not be limited to, notice of the date and time of the hearing, a statement of the criteria or standards on which the decision was based, an opportunity for the provider to review information upon which the adverse decision was based, an opportunity for the provider to appear personally at the hearing and present any additional information, and a timely decision on the appeal;

(7) If the insurer or participant in an insurance arrangement excludes or fails to retain a provider previously contracted with to provide health care services, the provider shall be permitted to appeal the adverse decision in the same manner as set forth in subdivision (6) of this section. If the provider disagrees with the decision, the provider shall be permitted to appeal to an appeals committee consisting of one person selected by each party to the appeal and one person mutually agreeable to both parties. The parties to the appeal shall pay to the appeal committee any costs associated with the person they select and shall share the costs of the person mutually agreeable to both parties, which costs shall not be recoverable by the other party;

(8) Prior to initiation of a proceeding to terminate a provider's participation, the provider shall be given an opportunity to enter into and complete a corrective action plan, except in cases of fraud or imminent harm to patient health or when the provider's ability to provide services has been restricted by an action, including probation or any compliance agreements, by the Department of Health and Human Services Regulation and Licensure or other governmental agency; and

(9) Policies and contracts shall not exclude providers with practices containing a substantial number of patients having severe or expensive medical conditions, except that this section shall not prohibit plans from excluding providers who fail to meet the insurance arrangement's criteria for quality, accessibility, or economic considerations.

Sec. 198. Section 44-7006, Reissue Revised Statutes of Nebraska, is amended to read:

44-7006 (1) A health carrier shall:

(a) Establish written policies and procedures for credentialing verification of all health care professionals with whom the health carrier contracts and apply these standards consistently;

(b) Verify the credentials of a health care professional before entering into a contract with that health care professional. The medical director of the health carrier or other designated health care professional shall have responsibility for, and shall participate in, credentialing verification;

(c) Establish a credentialing verification committee consisting of licensed physicians and other health care professionals to review credentialing verification information and supporting documents and make

decisions regarding credentialing verification;

(d) Make available for review by the applying health care professional upon written request all application and credentialing verification policies and procedures;

(e) Retain all records and documents relating to a health care professional's credentialing verification process for at least five years; and

(f) Keep confidential all information obtained in the credentialing verification process except as otherwise provided by law.

(2) Nothing in the Health Care Professional Credentialing Verification Act shall be construed to require a health carrier to select a provider as a participating provider solely because the provider meets the health carrier's credentialing verification standards or to prevent a health carrier from utilizing separate or additional criteria in selecting the health care professionals with whom it contracts.

(3) The policies and procedures for credentialing verification shall be available for review by the director, and, in the case of a health maintenance organization, shall also be available for review by the chief medical officer, if one is appointed pursuant to section ~~81-3201, 6 of this act,~~ and if not, then the Director of ~~Regulation and Licensure,~~ Public Health.

Sec. 199. Section 44-7107, Reissue Revised Statutes of Nebraska, is amended to read:

44-7107 (1) A contract between a health carrier and an intermediary shall satisfy all the requirements contained in this section.

(2) (a) Intermediaries and participating providers with whom they contract shall comply with all the applicable requirements of section 44-7106.

(b) A health carrier's statutory responsibility to monitor the offering of covered benefits to covered persons shall not be delegated or assigned to the intermediary.

(c) A health carrier shall have the right to approve or disapprove participation status of a subcontracted provider in its own or a contracted network for the purpose of delivering covered benefits to the health carrier's covered persons.

(d) A health carrier shall maintain copies of all intermediary health care subcontracts at its principal place of business in the state, or ensure that it has access to all intermediary subcontracts, including the right to make copies to facilitate regulatory review, upon twenty days' prior written notice from the health carrier. A health carrier may meet the requirements of this subdivision by maintaining a copy of the intermediary health care subcontract forms used by its intermediaries, and if the health carrier does so, the health carrier shall also maintain a copy of any portion of an intermediary health care subcontract which substantially differs from the intermediary health care subcontract form in subject areas other than reimbursement.

(e) If applicable, an intermediary shall transmit utilization documentation and claims paid documentation to the health carrier. The health carrier shall monitor the timeliness and appropriateness of payments made to providers and health care services received by covered persons.

(f) If applicable, an intermediary shall maintain the books, records, financial information, and documentation of health care services provided to covered persons at its principal place of business in the state and preserve them for five years in a manner that facilitates regulatory review.

(g) An intermediary shall allow the director and a health maintenance organization shall allow the director and the ~~Director of Regulation and Licensure~~ Department of Health and Human Services access to the intermediary's books, records, financial information, and any documentation of health care services provided to covered persons, as necessary to determine compliance with the Managed Care Plan Network Adequacy Act.

(h) A health carrier shall have the right, in the event of the intermediary's insolvency, to require the assignment to the health carrier of the provisions of a provider's contract addressing the provider's obligation to furnish covered services.

Sec. 200. Section 44-7206, Reissue Revised Statutes of Nebraska, is amended to read:

44-7206 A health carrier that provides managed care plans shall develop and maintain the infrastructure and disclosure systems necessary to measure the quality of health care services provided to covered persons on a regular basis and appropriate to the types of managed care plans offered by the health carrier. A health carrier shall:

(1) Establish a system designed to assess the quality of health care provided to covered persons and appropriate to the types of managed care plans offered by the health carrier. The system shall include systematic collection,

analysis, and reporting of relevant data in accordance with statutory and regulatory requirements;

(2) Communicate findings in a timely manner to applicable regulatory agencies, providers, and consumers as provided in section 44-7209;

(3) Report to the appropriate licensing authority any persistent pattern of problematic care provided by a provider that is sufficient to cause the health carrier to terminate or suspend contractual arrangements with the provider. A health carrier acting in good faith shall be granted immunity from any cause of action under state law in making the report; and

(4) Develop a written description of the quality assessment program available for review by the director, which shall include a signed certification by a corporate officer of the health carrier that the filing meets the requirements of the Quality Assessment and Improvement Act. The written description of the quality assessment program of a health maintenance organization shall also be available for review by the ~~Director of Regulation and Licensure~~, Department of Health and Human Services.

Sec. 201. Section 44-7306, Reissue Revised Statutes of Nebraska, is amended to read:

44-7306 (1) A health carrier shall maintain in a grievance register written records to document all grievances received during a calendar year. A request for a first-level review of an adverse determination shall be processed in compliance with section 44-7308 but not considered a grievance for purposes of the grievance register unless such request includes a written grievance. A request for a second-level review of an adverse determination shall be considered a grievance for purposes of the grievance register. For each grievance required to be recorded in the grievance register, the grievance register shall contain, at a minimum, the following information:

- (a) A general description of the reason for the grievance;
- (b) Date received;
- (c) Date of each review or hearing;
- (d) Resolution at each level of the grievance;
- (e) Date of resolution at each level; and
- (f) Name of the covered person for whom the grievance was filed.

(2) The grievance register shall be maintained in a manner that is reasonably clear and accessible to the director. A grievance register maintained by a health maintenance organization shall also be accessible to the ~~Director of Regulation and Licensure~~, Department of Health and Human Services.

(3) A health carrier shall retain the grievance register compiled for a calendar year for the longer of three years or until the director has adopted a final report of an examination that contains a review of the grievance register for that calendar year.

Sec. 202. Section 46-602, Revised Statutes Cumulative Supplement, 2006, is amended to read:

46-602 (1) Each water well completed in this state on or after July 1, 2001, excluding test holes and dewatering wells to be used for less than ninety days, shall be registered with the Department of Natural Resources as provided in this section within sixty days after completion of construction of the water well. The water well contractor as defined in section 46-1213 constructing the water well, or the owner of the water well if the owner constructed the water well, shall file the registration on a form made available by the department and shall also file with the department the information from the well log required pursuant to section 46-1241. The department shall, by January 1, 2002, provide water well contractors with the option of filing such registration forms electronically. No signature shall be required on forms filed electronically. The fee required by subsection (3) of section 46-1224 shall be the source of funds for any required fee to a contractor which provides the on-line services for such registration. Any discount in the amount paid the state by a credit card, charge card, or debit card company or a third-party merchant bank for such registration fees shall be deducted from the portion of the registration fee collected pursuant to section 46-1224.

(2) (a) If the newly constructed water well is a replacement water well, the registration form shall include (i) the registration number of the water well being replaced, if applicable, and (ii) the date the original water well was decommissioned or a certification that the water well will be decommissioned within one hundred eighty days or a certification that the original water well will be modified and equipped to pump fifty gallons per minute or less and will be used only for livestock, monitoring, observation, or any other nonconsumptive use or de minimus use approved by the applicable natural resources district.

(b) For purposes of this section, replacement water well means a

water well which is constructed to provide water for the same purpose as the original water well and is operating in accordance with any applicable permit from the department and any applicable rules and regulations of the natural resources district and, if the purpose is for irrigation, the replacement water well delivers water to the same tract of land served by the original water well and (i) replaces an abandoned water well within three years after the last operation of the abandoned water well and the original water well is decommissioned either before or within one hundred eighty days after such construction, (ii) replaces a water well that has not been abandoned but will not be used after construction of the new water well and the original water well will be decommissioned within one hundred eighty days after such construction, except that in the case of a municipal water well, the original municipal water well may be used after construction of the new water well but shall be decommissioned within one year after completion of the replacement water well, or (iii) will continue to be used but will be modified and equipped within one hundred eighty days after such construction of the replacement water well to pump fifty gallons per minute or less and will be used only for livestock, monitoring, observation, or any other nonconsumptive or de minimus use and approved by the applicable natural resources district.

(c) No water well shall be registered as a replacement water well until the Department of Natural Resources has received a properly completed notice of decommissioning for the water well being replaced on a form made available by the department, or properly completed notice, prepared in accordance with subsection (7) of this section, of the modification and equipping of the original water well to pump fifty gallons per minute or less for use only for livestock, monitoring, observation, or any other nonconsumptive or de minimus use approved by the applicable natural resources district. Such notices, as required, shall be completed by (i) the water well contractor as defined in section 46-1213 who decommissions the water well or modifies and equips the water well, (ii) the pump installation contractor as defined in section 46-1209 who decommissions the water well or modifies and equips the water well, or (iii) the owner if the owner decommissions a driven sandpoint well which is on land owned by him or her for farming, ranching, or agricultural purposes or as his or her place of abode. The Department of Health and Human Services Regulation and Licensure shall, by rule and regulation, determine which contractor or owner shall be responsible for such notice in situations in which more than one contractor or owner may be required to provide notice under this subsection.

(3) For a series of two or more water wells completed and pumped into a common carrier as part of a single site plan for irrigation purposes, a registration form and a detailed site plan shall be filed for each water well. The registration form shall include the registration numbers of other water wells included in the series if such water wells are already registered.

(4) A series of water wells completed for purposes of installation of a ground heat exchanger for a structure for utilizing the geothermal properties of the ground shall be considered as one water well. One registration form and a detailed site plan shall be filed for each such series.

(5) One registration form shall be required along with a detailed site plan which shows the location of each such water well in the site and a log from each such water well for water wells constructed as part of a single site plan for (a) monitoring ground water, obtaining hydrogeologic information, or extracting contaminants from the ground, (b) water wells constructed as part of remedial action approved by the Department of Environmental Quality pursuant to section 66-1525, 66-1529.02, or 81-15,124, and (c) water well owners who have a permit issued pursuant to the Industrial Ground Water Regulatory Act and also have an underground injection control permit issued by the Department of Environmental Quality.

(6) The Department of Natural Resources shall be notified by the owner of any change in the ownership of a water well required to be registered under this section. Notification shall be in such form and include such evidence of ownership as the Director of Natural Resources by rule and regulation directs. The department shall use such notice to update the registration on file. The department shall not collect a fee for the filing of the notice.

(7) The water well contractor or pump installation contractor responsible therefor shall notify the department within sixty days on a form provided by the department of any pump installation or any modifications to the construction of the water well or pump, after the initial registration of the well. For a change of use resulting in modification and equipping of an original water well which is being replaced in accordance with subsection (2) of this section, the water well contractor or pump installation contractor

shall notify the department within sixty days on a form provided by the department of the water well and pump modifications and equipping of the original water well. A water well owner shall notify the department within sixty days on a form provided by the department of any other changes or any inaccuracies in recorded water well information, including, but not limited to, changes in use. The department shall not collect a fee for the filing of the notice.

(8) Whenever a water well becomes an illegal water well as defined in section 46-706, the owner of the water well shall either correct the deficiency that causes the well to be an illegal water well or shall cause the proper decommissioning of the water well in accordance with rules and regulations adopted pursuant to the Water Well Standards and Contractors' Licensing Act. The water well contractor who decommissions the water well, the pump installation contractor who decommissions the water well, or the owner if the owner decommissions a driven sandpoint well which is on land owned by him or her for farming, ranching, or agricultural purposes or as his or her place of abode, shall provide a properly completed notice of abandonment to the Department of Natural Resources within sixty days. The Department of Health and Human Services ~~Regulation and Licensure~~ shall, by rule and regulation, determine which contractor or owner shall be responsible for such notice in situations in which more than one contractor or owner may be required to provide notice under this subsection. The Department of Natural Resources shall not collect a fee for the filing of the notice.

(9) Except for water wells which are used solely for domestic purposes and were constructed before September 9, 1993, and for test holes and dewatering wells used for less than ninety days, each water well which was completed in this state before July 1, 2001, and which is not registered on that date shall be an illegal water well until it is registered with the Department of Natural Resources. Such registration shall be completed by a water well contractor or by the current owner of the water well, shall be on forms provided by the department, and shall provide as much of the information required by subsections (1) through (5) of this section for registration of a new water well as is possible at the time of registration.

(10) Water wells which are or were used solely for injecting any fluid other than water into the underground water reservoir, which were constructed before July 16, 2004, and which have not been properly decommissioned on or before July 16, 2004, shall be registered on or before July 1, 2005.

Sec. 203. Section 46-705, Reissue Revised Statutes of Nebraska, is amended to read:

46-705 Nothing in the Nebraska Ground Water Management and Protection Act shall be construed to limit the powers of the Department of Health and Human Services ~~Regulation and Licensure~~ provided in the Nebraska Safe Drinking Water Act.

Nothing in the Nebraska Ground Water Management and Protection Act relating to the contamination of ground water is intended to limit the powers of the Department of Environmental Quality provided in Chapter 81, article 15.

Sec. 204. Section 46-724, Reissue Revised Statutes of Nebraska, is amended to read:

46-724 If the Director of Environmental Quality determines from the study conducted pursuant to section 46-722 that one or more sources of contamination are not point sources and if a management area, a purpose of which is protection of water quality, has been established which includes the affected area, the Director of Environmental Quality shall consider whether to require the district which established the management area to adopt an action plan as provided in sections 46-725 to 46-729.

If the Director of Environmental Quality determines that one or more of the sources are not point sources and if such a management area has not been established or does not include all the affected area, he or she shall, within thirty days after completion of the report required by section 46-722, consult with the district within whose boundaries the area affected by such contamination is located and fix a time and place for a public hearing to consider the report, hear any other evidence, and secure testimony on whether a management area should be designated or whether an existing area should be modified. The hearing shall be held within one hundred twenty days after completion of the report. Notice of the hearing shall be given as provided in section 46-743, and the hearing shall be conducted in accordance with such section.

At the hearing, all interested persons shall be allowed to appear and present testimony. The Conservation and Survey Division of the University of Nebraska, the Department of Health and Human Services, ~~Regulation and Licensure~~, the Department of Natural Resources, and the appropriate district

may offer as evidence any information in their possession which they deem relevant to the purpose of the hearing. After the hearing and after any studies or investigations conducted by or on behalf of the Director of Environmental Quality as he or she deems necessary, the director shall determine whether a management area shall be designated.

Sec. 205. Section 46-1011, Reissue Revised Statutes of Nebraska, is amended to read:

46-1011 Plans and specifications for any proposed improvement authorized by sections 46-1001 to 46-1020 shall be filed with the director, the Department of Health and Human Services, ~~Regulation and Licensure~~, and the secretary of the district. No construction of any such improvement shall begin until the plans and specifications for such improvement have been approved by the director and the Department of Health and Human Services, ~~Regulation and Licensure~~, except that if the improvement involves a public water system as defined in section 71-5301, only the Department of Health and Human Services ~~Regulation and Licensure~~ shall be required to review the plans and specifications for such improvement and approve the same if in compliance with Chapter 71, article 53, and departmental regulations adopted thereunder.

The total benefits of any such improvement shall be divided into a suitable number of benefit units. Each landowner within the district shall subscribe to a number of such units in proportion to the extent he or she desires to participate in the benefits of the improvements. As long as the capacity of the district's facilities permits, participating members of the district may subscribe to additional units upon payment of a unit fee for each such unit. Owners of land located within the district who are not participating members may subscribe to such units as the board in its discretion may grant, and upon payment of the unit fee for each such unit shall be entitled to the same rights as original participating members. If the capacity of the district's facilities permits, the district may sell water to persons engaged in hauling water and to any political subdivision organized under the laws of the State of Nebraska.

Sec. 206. Section 46-1018, Reissue Revised Statutes of Nebraska, is amended to read:

46-1018 It shall be the duty of the chairperson of the board of directors to keep in repair such works as are constructed by the district as authorized in sections 46-1001 to 46-1020 and to operate such works, all as directed by the board. Such works shall be operated in conformance with the rules and regulations of the Department of Health and Human Services ~~Regulation and Licensure~~ relating to water supply systems. The chairperson and all persons who may perform any service or labor as provided in sections 46-1001 to 46-1020 shall be paid such just and reasonable compensation as may be allowed by the board of directors, and such board shall annually prepare an estimated budget for the coming year, adjust water rates, if necessary to produce sufficient revenue required by such budget, cause an annual audit of the district's records and accounts to be made, and make a report on such matters at each annual meeting.

Sec. 207. Section 46-1204.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1204.01 Abandoned water well means any water well (1) the use of which has been accomplished or permanently discontinued, (2) which has been decommissioned as described in the rules and regulations of the Department of Health and Human Services, ~~Regulation and Licensure~~, and (3) for which the notice of abandonment required by subsection (2) of section 46-602 has been filed with the Department of Natural Resources by the licensed water well contractor or pump installation contractor who decommissioned the water well or by the water well owner if the owner decommissioned the water well.

Sec. 208. Section 46-1207, Reissue Revised Statutes of Nebraska, is amended to read:

46-1207 Department shall mean the Department of Health and Human Services, ~~Regulation and Licensure~~.

Sec. 209. Section 46-1217, Revised Statutes Cumulative Supplement, 2006, is amended to read:

46-1217 There is hereby created a Water Well Standards and Contractors' Licensing Board. The board shall be composed of ten members, six of whom shall be appointed by the Governor as follows: (1) A water well contractor representing irrigation water well contractors, (2) a water well contractor representing domestic water well contractors, (3) a water well contractor representing municipal and industrial water well contractors, (4) a pump installation contractor, (5) a manufacturer or supplier of water well or pumping equipment, and (6) a holder of a license or certificate issued under the Water Well Standards and Contractors' Licensing Act employed by a natural resources district. ~~The Director of Health and Human Services Regulation and~~



~~Licensure or his or her designated representative, chief executive officer of the Department of Health and Human Services or his or her designated representative,~~ the Director of Environmental Quality or his or her designated representative, the Director of Natural Resources or his or her designated representative, and the director of the Conservation and Survey Division of the University of Nebraska or his or her designated representative shall also serve as members of the board. Each member shall be a resident of the state. Each appointed member of the board shall have had at least five years of experience in the business of his or her category prior to appointment and shall be actively engaged in such business at the time of appointment and while serving on the board. Each member representing a category subject to licensing under the Water Well Standards and Contractors' Licensing Act, with the exception of members initially appointed, shall be licensed by the department pursuant to such act. In making appointments, the Governor may consider recommendations made by the trade associations of each category.

Sec. 210. Section 46-1235, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235 In cases other than those relating to failure to meet the requirements for an initial license or an initial certificate, the department may deny, refuse renewal of, suspend, or revoke licenses or certificates or may take other disciplinary action for any of the following acts or offenses:

- (1) Practice of fraud or deceit in obtaining a license or certificate;
- (2) Violation of the Water Well Standards and Contractors' Licensing Act or any standards, rules, or regulations adopted and promulgated pursuant to such act;
- (3) Incompetence or gross negligence in the performance of any activity for which licenses or certificates are issued pursuant to the act;
- (4) Conduct or practices detrimental to the health or safety of persons hiring the services of the licensee or certificate holder or of members of the general public;
- (5) Practice of the trade fraudulently, beyond the authorized scope, or with manifest incapacity;
- (6) Practice of the trade while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, or physical disability;
- (7) Permitting, aiding, or abetting the practice of the trade or the performance of activities requiring a license or certificate by a person not licensed or certified to do so;
- (8) Having had a license or certificate denied, refused renewal, limited, suspended, or revoked or having been disciplined in any other manner by another state or jurisdiction to practice water well construction, water well drilling, water well decommissioning, or pump installation based upon acts by the applicant, licensee, or certificate holder similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or certificate or the taking of other disciplinary action by another state or jurisdiction shall be conclusive evidence;
- (9) Unprofessional conduct as may be defined in rules and regulations of the board with approval of the department;
- (10) Practice of the trade while the license or certificate to do so is suspended or practice of the trade in contravention of any limitation placed upon the license or certificate;
- (11) Failing to file a water well registration required by subsection (1), (2), (3), (4), or (5) of section 46-602 or failing to file a notice required by subsection (7) of such section; or
- (12) Failing to file a properly completed notice of abandonment of a water well required by subsection (8) of section 46-602.

A licensee or certificate holder shall not engage in the practice of the trade after a license or certificate is revoked or during the time for which it is suspended. If a license or certificate is suspended, the suspension shall be for a definite period of time to be fixed by the ~~Director of Regulation and Licensure,~~ department, and such license or certificate shall be automatically reinstated upon the expiration of such period if the current renewal fee has been paid. If such license or certificate is revoked, such revocation shall be for one year.

Sec. 211. Section 46-1235.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1235.01 The authority of the ~~Director of Regulation and Licensure~~ department to discipline a licensee or certificate holder by placing him or her on probation pursuant to sections 46-1235 and 46-1237.02 shall include, but not be limited to, the following:

- (1) To require the licensee or certificate holder to obtain

additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or technical examination, or both, or any or all of such combinations of written, oral, practical, and technical at the option of the ~~director,~~ department; or

(2) To restrict or limit the extent, scope, or type of practice of the licensee or certificate holder upon consultation with the board.

Sec. 212. Section 46-1237.01, Reissue Revised Statutes of Nebraska, is amended to read:

46-1237.01 The department may temporarily suspend or limit a license or certificate without notice or hearing if the ~~Director of Regulation and Licensure~~ department determines that there is reasonable cause to believe that grounds exist under section 46-1235 for the revocation, suspension, or limitation of the license or certificate and that the licensee's or certificate holder's continuation in practice would constitute an imminent danger to public health and safety. Simultaneously with any such action, the department shall institute proceedings for a hearing on the grounds for revocation, suspension, or limitation. Such hearing shall be held no later than fifteen days from the date of such temporary suspension or limitation. A continuance of the hearing shall be granted by the department upon written request of the licensee or certificate holder, and such a continuance shall not exceed thirty days. An order of temporary suspension or limitation shall take effect when served in person upon the licensee or certificate holder. A temporary suspension or limitation shall not be in effect for a period in excess of one hundred eighty days. At the end of such one-hundred-eighty-day period, the license or certificate shall be reinstated unless the department has revoked, suspended, or limited the license or certificate after notice and hearing.

Sec. 213. Section 46-1237.02, Reissue Revised Statutes of Nebraska, is amended to read:

46-1237.02 (1) All proceedings under the Water Well Standards and Contractors' Licensing Act shall be summary in nature and triable as equity actions. Affidavits may be received in evidence at the discretion of the ~~Director of Regulation and Licensure,~~ department. The department may administer oaths, subpoena witnesses and compel their attendance, and issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as a district court. Depositions may be used by either party.

(2) Upon the completion of any hearing, the ~~director,~~ department may enter an order to exercise any or all of the following powers irrespective of the petition:

(a) Issue a censure or reprimand against the licensee or certificate holder;

(b) Suspend judgment;

(c) Place the licensee or certificate holder on probation;

(d) Place a limitation on the license or certificate and upon the right of the licensee or certificate holder to practice the trade to such extent, scope, or type of practice, for such time, and under such conditions as are found necessary and proper. The ~~director,~~ department shall consult with the board in all instances prior to issuing an order of limitation;

(e) Impose a civil penalty under section 46-1240. The amount of the penalty shall be based on the severity of the violation;

(f) Enter an order of suspension;

(g) Enter an order of revocation; or

(h) Dismiss the action.

(3) If a licensee or certificate holder fails to appear, either in person or by counsel, at the time and place designated in a notice, the ~~director,~~ department, after receiving satisfactory evidence of the truth of the charges, shall order the license or certificate revoked or suspended or shall order any other appropriate disciplinary action.

(4) Any order issued under the act may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 214. Section 46-1240.05, Reissue Revised Statutes of Nebraska, is amended to read:

46-1240.05 (1) Whenever the ~~Director of Regulation and Licensure~~ department has reason to believe that a violation of any provision of the Water Well Standards and Contractors' Licensing Act or any rule or regulation adopted and promulgated by the department is occurring or has occurred, ~~he or she~~ the department may cause an administrative order to be served upon the person alleged to be in violation. Such order shall specify the violation and the facts alleged to constitute a violation and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such

order. Any such order shall become final unless the person named in the order requests in writing a hearing before the ~~director~~ department no later than thirty days after the date such order is served. In lieu of such order, the ~~director~~ department may require that the person appear before the ~~director~~ department at a time and place specified in the notice and answer the charges. The notice shall be served on the person not less than thirty days before the time set for the hearing.

(2) Whenever the ~~director~~ department finds that an emergency exists requiring immediate action to protect the public health and welfare concerning a chemical, material, procedure, or act which is determined by the ~~director~~ department to be harmful or potentially harmful to human health, the ~~director~~ department may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the ~~director~~ department deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply immediately and, on written application to the ~~director~~, department, shall be afforded a hearing as soon as possible and not later than ten days after receipt of such application by such affected person. On the basis of such hearing, the ~~director~~ department shall continue such order in effect, revoke it, or modify it.

(3) The ~~director~~ department shall afford to the alleged violator an opportunity for a hearing before the department.

Sec. 215. Section 47-623, Revised Statutes Cumulative Supplement, 2006, is amended to read:

47-623 (1) The council shall include the following voting members:

(a) The executive director of the Nebraska Commission on Law Enforcement and Criminal Justice;

(b) The Director of Correctional Services;

(c) The chairperson of the Board of Parole;

(d) The Parole Administrator; and

(e) Nine members appointed by the Governor with the approval of a majority of the Legislature, consisting of: One representative from a list of persons nominated by the Nebraska Criminal Defense Attorneys Association; one representative from a list of persons nominated by the Nebraska County Attorneys Association; one full-time officer or employee of a law enforcement agency; one mental health and substance abuse professional; from each congressional district, one provider of community-based behavioral health services; and two at-large members.

(2) The council shall include the following nonvoting members:

(a) The State Court Administrator;

(b) The probation administrator;

(c) Two members of the Legislature, appointed by the Executive Board of the Legislative Council;

(d) Two judges of the district court, appointed by the Chief Justice of the Supreme Court; and

~~(e) The Director of Health and Human Services or his or her designee.~~

(e) The chief executive officer of the Department of Health and Human Services or his or her designee.

(3) The terms of office for members initially appointed under subdivision (1)(e) of this section shall be three years. Upon completion of the initial terms of such members, the Governor shall appoint (a) a representative from law enforcement, a mental health and substance abuse professional, and one at-large member for terms of one year, (b) a representative of the Nebraska Criminal Defense Attorneys Association, one provider of community-based behavioral health services from the first congressional district, one provider of community-based behavioral health services from the third congressional district, and one at-large member for terms of two years, and (c) a representative of the Nebraska County Attorneys Association and a provider of community-based behavioral health services from the second congressional district for terms of three years. Succeeding appointees shall be appointed for terms of three years. An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

(4) The council shall by majority vote elect a chairperson from among the members of the council.

(5) The members of the council shall be reimbursed for their actual and necessary expenses incurred while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

Sec. 216. Section 48-602, Revised Statutes Cumulative Supplement, 2006, is amended to read:

48-602 For purposes of the Employment Security Law, unless the context otherwise requires:

(1) Base period shall mean the last four completed calendar quarters immediately preceding the first day of an individual's benefit year, except that the commissioner may prescribe by rule and regulation that base period shall mean the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(2) Benefits shall mean the money payments payable to an individual with respect to his or her unemployment;

(3) Benefit year, with respect to any individual, shall mean the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be a valid claim for the purpose of this subdivision if the individual has been paid the wages for insured work required under section 48-627. For the purposes of this subdivision a week with respect to which an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of such week;

(4) Calendar quarter shall mean the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commissioner of Labor may by rule and regulation prescribe;

(5) Client shall mean any individual, partnership, limited liability company, corporation, or other legally recognized entity that contracts with a professional employer organization to obtain professional employer services relating to worksite employees through a professional employer agreement;

(6) Combined tax shall mean the employer liability consisting of contributions and the state unemployment insurance tax;

(7) Combined tax rate shall mean the rate which is applied to wages to determine the combined taxes due;

(8) Commissioner shall mean the Commissioner of Labor;

(9) Contribution rate shall mean the percentage of the combined tax rate used to determine the contribution portion of the combined tax;

(10) Contributions shall mean that portion of the combined tax based upon the contribution rate portion of the combined tax rate which is deposited in the state Unemployment Compensation Fund as required by sections 48-648 and 48-649;

(11) Department shall mean the Department of Labor;

(12) Employment office shall mean a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, including public employment offices operated by an agency of a foreign government;

(13) Fund shall mean the Unemployment Compensation Fund established by section 48-617 to which all contributions and payments in lieu of contributions required and from which all benefits provided shall be paid;

(14) Hospital shall mean an institution which has been licensed, certified, or approved by the Department of Health and Human Services Regulation and Licensure as a hospital;

(15) Institution of higher education shall mean an institution which: (a) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate; (b) is legally authorized in this state to provide a program of education beyond high school; (c) provides an educational program for which it awards a bachelor's degree or higher or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and (d) is a public or other nonprofit institution; notwithstanding any of the foregoing provisions of this subdivision, all colleges and universities in this state are institutions of higher education for purposes of this section;

(16) Insured work shall mean employment for employers;

(17) Leave of absence shall mean any absence from work: (a) Mutually and voluntarily agreed to by the employer and the employee; (b) mutually and voluntarily agreed to between the employer and the employee's bargaining agent; or (c) to which the employee is entitled to as a matter of state or federal law;

(18) Paid vacation leave shall mean a period of time while employed or following separation from employment in which the individual renders no services to the employer but is entitled to receive vacation pay equal to or

exceeding his or her base weekly wage;

(19) Payments in lieu of contributions shall mean the money payments to the Unemployment Compensation Fund required by sections 48-649, 48-652, 48-660.01, and 48-661;

(20) Professional employer agreement shall mean a written professional employer services contract whereby:

(a) A professional employer organization agrees to provide payroll services, employee benefit administration, or personnel services for a majority of the employees providing services to the client at a client worksite;

(b) The agreement is intended to be ongoing rather than temporary in nature; and

(c) Employer responsibilities for worksite employees, including those of hiring, firing, and disciplining, are shared between the professional employer organization and the client by contract. The term professional employer agreement shall not include a contract between a parent corporation, company, or other entity and a wholly owned subsidiary;

(21) Professional employer organization shall mean any individual, partnership, limited liability company, corporation, or other legally recognized entity that enters into a professional employer agreement with a client or clients for a majority of a client's workforce at a client worksite. The term professional employer organization shall not include an insurer as defined in section 44-103 or a temporary help firm;

(22) State includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

(23) State unemployment insurance tax shall mean that portion of the combined tax which is based upon the state unemployment insurance tax rate portion of the combined tax rate and which is deposited in the State Unemployment Insurance Trust Fund as required by sections 48-648 and 48-649;

(24) State unemployment insurance tax rate shall mean the percentage of the combined tax rate used to determine the state unemployment insurance tax portion of the combined tax;

(25) Temporary employee shall mean an employee of a temporary help firm assigned to work for the clients of such temporary help firm;

(26) Temporary help firm shall mean a firm that hires its own employees and assigns them to clients to support or supplement the client's work force in work situations such as employee absences, temporary skill shortages, seasonal workloads, and special assignments and projects;

(27) Unemployed shall mean an individual during any week in which the individual performs no service and with respect to which no wages are payable to the individual or any week of less than full-time work if the wages payable with respect to such week are less than the individual's weekly benefit amount, but shall not include any individual on a leave of absence or on paid vacation leave. When an agreement between the employer and a bargaining unit representative does not allocate vacation pay allowance or pay in lieu of vacation to a specified period of time during a period of temporary layoff or plant shutdown, the payment by the employer or his or her designated representative will be deemed to be wages as defined in this section in the week or weeks the vacation is actually taken;

(28) Unemployment Trust Fund shall mean the trust fund in the Treasury of the United States of America established under section 904 of the federal Social Security Act, 42 U.S.C. 1104, as such section existed on March 2, 2001, which receives credit from the state Unemployment Compensation Fund;

(29) Wages, except with respect to services performed in employment as provided in subdivisions (4)(c) and (d) of section 48-604, shall mean all remuneration for personal services, including commissions and bonuses, remuneration for personal services paid under a contract of hire, and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules and regulations prescribed by the commissioner. After December 31, 1985, wages shall include tips which are received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code as defined in section 49-801.01.

With respect to services performed in employment in agricultural labor as is provided in subdivision (4)(c) of section 48-604 or in domestic service as is provided in subdivision (4)(d) of section 48-604, wages shall mean cash remuneration for such services.

The term wages shall not include:

(a) The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such

payment, made to, or on behalf of, an individual in employment or any of his or her dependents under a plan or system established by an employer which makes provision for such individuals generally or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment, on account of (i) sickness or accident disability, except, in the case of payments made to an employee or any of his or her dependents, this subdivision (i) shall exclude from wages only payments which are received under a workers' compensation law, (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) death;

(b) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code as defined in section 49-801.01;

(c) Any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months following the last calendar month in which such individual worked for such employer;

(d) Any payment made to, or on behalf of, an individual or his or her beneficiary (i) from or to a trust described in section 401(a) of the Internal Revenue Code as defined in section 49-801.01 which is exempt from tax under section 501(a) of the Internal Revenue Code as defined in section 49-801.01 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code as defined in section 49-801.01;

(e) Any payment made to, or on behalf of, an employee or his or her beneficiary (i) under a simplified employee pension as defined by the commissioner, (ii) under or to an annuity contract as defined by the commissioner, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise, (iii) under or to an exempt governmental deferred compensation plan as defined by the commissioner, (iv) to supplement pension benefits under a plan or trust, as defined by the commissioner, to take into account some portion or all of the increase in the cost of living since retirement, but only if such supplemental payments are under a plan which is treated as a welfare plan, or (v) under a cafeteria benefits plan;

(f) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business;

(g) Benefits paid under a supplemental unemployment benefit plan which satisfies the eight points set forth in Internal Revenue Service Revenue Ruling 56-249 as the ruling existed on March 2, 2001, and is in compliance with the standards set forth in Internal Revenue Service Revenue Rulings 58-128 and 60-330 as the rulings existed on March 2, 2001; and

(h) Remuneration for service performed in the employ of any state in the exercise of his or her duties as a member of the Army National Guard or Air National Guard or in the employ of the United States of America as a member of any military reserve unit;

(30) Week shall mean such period of seven consecutive days as the commissioner may by rule and regulation prescribe;

(31) Week of unemployment with respect to any individual shall mean any week during which he or she performs less than full-time work and the wages payable to him or her with respect to such week are less than his or her weekly benefit amount;

(32) Wholly owned subsidiary means a corporation, company, or other entity which has eighty percent or more of its outstanding voting stock or membership owned or controlled, directly or indirectly, by the parent entity; and

(33) Worksite employee shall mean a person receiving wages or benefits from a professional employer organization pursuant to the terms of a professional employer agreement for work performed at a client's worksite.

Sec. 217. Section 48-647, Reissue Revised Statutes of Nebraska, 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~~ Department 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~~ Department of Health and Human Services 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~~ Department of Health and Human Services.

(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~~ Department of Health and Human Services 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~~ Department of Health and Human Services and the commissioner shall develop and implement a collection system to carry out the intent of this subdivision. The collection system shall, at a minimum, provide that:

(i) The commissioner shall periodically notify the ~~director~~ Department of Health and Human Services 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~~ Department of Health and Human Services 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~~ Department of Health and Human Services 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~~ Department of Health and Human Services 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~~ Department of Health and Human Services 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~~ chief executive officer of the Department 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 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. 218. Section 48-1902, Reissue Revised Statutes of Nebraska, is amended to read:

48-1902 For purposes of sections 48-1901 to 48-1910, unless the context otherwise requires:

(1) Alcohol shall mean any product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, synthetic ethyl alcohol, the four varieties of liquor defined in subdivisions (1) through (4) of section 53-103, alcohol, spirits, wine, and beer, every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and alcohol used in the manufacture of denatured alcohol, flavoring extracts, syrups, or medicinal, mechanical, scientific, culinary, and toilet preparations;

(2) Breath-testing device shall mean intoxilyzer model 4011AS or other scientific testing equivalent as approved by and operated in accordance with the department rules and regulations;

(3) Breath-testing-device operator shall mean a person who has obtained or been issued a permit pursuant to the department rules and regulations;

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

(5) Department rules and regulations shall mean the techniques and methods authorized pursuant to section 60-6,201;

(6) Drug shall mean any substance, chemical, or compound as described, defined, or delineated in sections 28-405 and 28-419 or any metabolite or conjugated form thereof, except that any substance, chemical, or compound containing any product as defined in subdivision (1) of this section may also be defined as alcohol;

(7) Employee shall mean any person who receives any remuneration, commission, bonus, or other form of wages in return for such person's actions which directly or indirectly benefit an employer; and

(8) Employer shall mean the State of Nebraska and its political subdivisions, all other governmental entities, or any individual, association, corporation, or other organization doing business in the State of Nebraska unless it, he, or she employs a total of less than six full-time and part-time employees at any one time.

Sec. 219. Section 48-2305, Reissue Revised Statutes of Nebraska, is amended to read:

48-2305 An employer that has employees who are employed in two or more states and that transmits reports magnetically or electronically may comply with the New Hire Reporting Act by designating one of such states in which the employer has employees as the state to which the employer will transmit the report described in section 48-2303. Any Nebraska employer that transmits reports pursuant to this section shall notify the ~~Director of Health and Human Services~~ department in writing of the state which such employer designates for the purpose of transmitting reports.

Sec. 220. Section 48-2306, Reissue Revised Statutes of Nebraska, is amended to read:

48-2306 On and after October 1, 1998, the department may levy a fine not to exceed twenty-five dollars for each employee not reported by the employer to the department. The department shall determine whether or not to levy a fine based upon the good faith efforts of an employer to comply with the New Hire Reporting Act. The department shall remit fines collected under this section to the State Treasurer for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. ~~The department shall remit any money collected pursuant to this section to the State Treasurer for credit to the permanent school fund.~~

Sec. 221. Section 48-2307, Reissue Revised Statutes of Nebraska, is amended to read:

48-2307 ~~The Director of Health and Human Services~~ department shall issue a report to the Legislature on or before January 31 of each year which

discloses the number of employees reported to the department and the number of matches during the preceding calendar year for purposes of the New Hire Reporting Act.

Sec. 222. Section 49-506, Reissue Revised Statutes of Nebraska, is amended to read:

49-506 After the Secretary of State has made the distribution provided by section 49-503, he or she shall deliver additional copies of the session laws and the journal of the Legislature pursuant to this section in print or electronic format as he or she determines, upon recommendation by the Clerk of the Legislature and approval of the Executive Board of the Legislative Council.

One copy of the session laws shall be delivered to the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the State Fire Marshal, the Department of Administrative Services, the Department of Aeronautics, the Department of Agriculture, the Department of Banking and Finance, the State Department of Education, the Department of Environmental Quality, the Department of Insurance, the Department of Labor, the Department of Motor Vehicles, the Department of Property Assessment and Taxation, the Department of Revenue, the Department of Roads, the Department of Veterans' Affairs, the Department of Natural Resources, the Military Department, the Nebraska State Patrol, the Nebraska Commission on Law Enforcement and Criminal Justice, each of the Nebraska state colleges, the Game and Parks Commission, the Nebraska Library Commission, the Nebraska Liquor Control Commission, the Nebraska Accountability and Disclosure Commission, the Public Service Commission, the State Real Estate Commission, the Nebraska State Historical Society, the Public Employees Retirement Board, the Risk Manager, the Legislative Fiscal Analyst, the Public Counsel, the materiel division of the Department of Administrative Services, the State Records Administrator, the budget division of the Department of Administrative Services, ~~the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support,~~ the Tax Equalization and Review Commission, the inmate library at all state penal and correctional institutions, the Commission on Public Advocacy, and the Library of Congress; two copies to the Governor, the Secretary of State, the Nebraska Workers' Compensation Court, the Commission of Industrial Relations, and the Coordinating Commission for Postsecondary Education, one of which shall be for use by the community colleges; three copies to the Department of Health and Human Services; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General; nine copies to the Revisor of Statutes; sixteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law.

One copy of the journal of the Legislature shall be delivered to the Governor, the Lieutenant Governor, the State Treasurer, the Auditor of Public Accounts, the Reporter of the Supreme Court and Court of Appeals, the State Court Administrator, the Nebraska State Historical Society, the Legislative Fiscal Analyst, the Tax Equalization and Review Commission, the Commission on Public Advocacy, and the Library of Congress; two copies to the Secretary of State, the Commission of Industrial Relations, and the Nebraska Workers' Compensation Court; four copies to the Nebraska Publications Clearinghouse; five copies to the Attorney General and the Revisor of Statutes; eight copies to the Clerk of the Legislature; thirteen copies to the Supreme Court and the Legislative Council; and thirty-five copies to the University of Nebraska College of Law. The remaining copies shall be delivered to the State Librarian who shall use the same, so far as required for exchange purposes, in building up the State Library and in the manner specified in sections 49-507 to 49-509.

Sec. 223. Section 49-617, Reissue Revised Statutes of Nebraska, is amended to read:

49-617 The Revisor of Statutes shall cause the statutes to be printed. The printer shall deliver all completed copies to the Supreme Court. These copies shall be held and disposed of by the court as follows: Sixty copies to the State Library to exchange for statutes of other states; five copies to the State Library to keep for daily use; not to exceed twenty-five copies to the Legislative Council for bill drafting and related services to the Legislature and executive state officers; as many copies to the Attorney General as he or she has attorneys on his or her staff; as many copies to the Commission on Public Advocacy as it has attorneys on its staff; up to sixteen copies to the State Court Administrator; twelve copies to the Tax Commissioner; eight copies to the Nebraska Publications Clearinghouse; six copies to the Public Service Commission; four copies to the Secretary of State; four copies to the Clerk of the Legislature for use in his or her

office and three copies to be maintained in the legislative chamber, one copy on each side of the chamber and one copy at the desk of the Clerk of the Legislature, under control of the sergeant at arms; three copies to the Auditor of Public Accounts; three copies to the Department of Health and Human Services; two copies each to the Governor of the state, the Chief Justice and each judge of the Supreme Court, each judge of the Court of Appeals, the Clerk of the Supreme Court, the Reporter of the Supreme Court and Court of Appeals, the Commissioner of Labor, and the Revisor of Statutes; one copy each to the Secretary of State of the United States, each Indian tribal court located in the State of Nebraska, the library of the Supreme Court of the United States, the Adjutant General, the Air National Guard, the Commissioner of Education, the State Treasurer, the Board of Educational Lands and Funds, the Director of Agriculture, the Director of Administrative Services, the Director of Aeronautics, the Director of Economic Development, the director of the Public Employees Retirement Board, the Director-State Engineer, the Director of Banking and Finance, the Director of Insurance, the Director of Motor Vehicles, the Property Tax Administrator, the Director of Veterans' Affairs, the Director of Natural Resources, the Director of Correctional Services, the Nebraska Emergency Operating Center, each judge of the Nebraska Workers' Compensation Court, each judge of the Commission of Industrial Relations, the Nebraska Liquor Control Commission, the State Real Estate Commission, the Tax Equalization and Review Commission, the secretary of the Game and Parks Commission, the Board of Pardons, ~~the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, the Department of Health and Human Services Finance and Support,~~ each state institution under the Department of Health and Human Services, each state institution under the State Department of Education, the State Surveyor, the Nebraska State Patrol, the materiel division of the Department of Administrative Services, the personnel division of the Department of Administrative Services, the Nebraska Motor Vehicle Industry Licensing Board, the Board of Trustees of the Nebraska State Colleges, each of the Nebraska state colleges, each district judge of the State of Nebraska, each judge of the county court, each judge of a separate juvenile court, the Lieutenant Governor, each United States Senator from Nebraska, each United States Representative from Nebraska, each clerk of the district court for the use of the district court, the clerk of the Nebraska Workers' Compensation Court, each clerk of the county court, each county attorney, each county public defender, each county law library, and the inmate library at all state penal and correctional institutions, and each member of the Legislature shall be entitled to two complete sets, and two complete sets of such volumes as are necessary to update previously issued volumes, but each member of the Legislature and each judge of any court referred to in this section shall be entitled, on request, to an additional complete set. Copies of the statutes distributed without charge, as listed in this section, shall be the property of the state or governmental subdivision of the state and not the personal property of the particular person receiving a copy. Distribution of statutes to the library of the College of Law of the University of Nebraska shall be as provided in sections 85-176 and 85-177.

Sec. 224. Section 54-703, Revised Statutes Cumulative Supplement, 2006, is amended to read:

54-703 (1) The Department of Agriculture and all inspectors and persons appointed and authorized to assist in the work of the department shall enforce sections 54-701 to 54-753.05, 54-797 to 54-7,103, and 54-7,105 to 54-7,108 as designated.

(2) The department and any officer, agent, employee, or appointee of the department shall have the right to enter upon the premises of any person who has, or is suspected of having, any animal thereon, including any premises where the carcass or carcasses of dead livestock may be found or where a facility for the disposal or storage of dead livestock is located, for the purpose of making any and all inspections, examinations, tests, and treatments of such animal, to inspect livestock carcass disposal practices, and to declare, carry out, and enforce any and all quarantines.

(3) The department, in consultation with the Department of Environmental Quality and the Department of Health and Human Services, ~~Regulation and Licensure,~~ may adopt and promulgate rules and regulations reflecting best management practices for the burial of carcasses of dead livestock.

(4) The Department of Agriculture shall further adopt and promulgate such rules and regulations as are necessary to promptly and efficiently enforce and effectuate the general purpose and provisions of such sections.

Sec. 225. Section 54-744.01, Reissue Revised Statutes of Nebraska, is amended to read:

54-744.01 (1) Livestock carcasses may be disposed of in a research or demonstration facility for innovative livestock disposal methods registered with the Department of Agriculture, except that a research or demonstration facility of liquefaction shall not be registered under this section and liquefaction shall not be permitted as a method of livestock disposal. The registration of a facility under this section shall contain a description of the facility, the location and proposed duration of the research or demonstration, and a description of the method of disposal to be utilized. The department may register up to five such research or demonstration facilities conducted in conjunction with private livestock operations which meet all of the following conditions:

(a) The project is designed and conducted by one or more research faculty of the University of Nebraska;

(b) The project does not duplicate other research or demonstration projects;

(c) The project sponsors submit annual reports on the project and a final report at the conclusion of the project;

(d) The project employs adequate safeguards against disease transmission or environmental contamination; and

(e) The project meets any other conditions deemed prudent by the director.

(2) It is the intent of the Legislature that the department register at least one research or demonstration facility for innovative livestock disposal methods which shall be located upon the premises of an animal feeding operation as defined in section 54-2417. Before registering such facility, the department shall first consult with the Department of Environmental Quality and the Department of Health and Human Services, ~~Regulation and Licensure~~. The Department of Agriculture may revoke the registration of the facility at any time if the director has reason to believe that the facility no longer meets the conditions for registration.

(3) Only the carcasses of livestock that have died upon the animal feeding operation premises where a research or demonstration facility for innovative livestock disposal methods is located may be disposed of at such facility. Carcasses from other locations shall not be transported to such facility for disposal.

(4) A facility registered under this section is exempt from the requirements for disposal of solid waste under the Integrated Solid Waste Management Act.

Sec. 226. Section 54-747, Reissue Revised Statutes of Nebraska, is amended to read:

54-747 Whenever any animal has been adjudged to be affected with any infectious, contagious, or otherwise transmissible disease, other than a disease for which specific legislation exists, and has been ordered killed, the owner or custodian thereof shall be notified of such finding and order. Within forty-eight hours thereafter, such owner or custodian may file a protest with the Department of Agriculture stating under oath that to the best of his or her knowledge and belief such animal is free from such infectious, contagious, or otherwise transmissible disease. Thereupon, an examination of the animal involved shall be made by three veterinarians, graduates of a college of veterinary medicine which has been approved by the Department of Health and Human Services ~~Regulation and Licensure~~ as a preliminary qualification for admission to practice veterinary medicine in the state. One of such veterinarians shall be appointed by the department, one by the person making such protest, and the two thus appointed shall choose the third. In case all three veterinarians or any two of them find such animal to be free from such infectious, contagious, or otherwise transmissible disease, the expense of such examination shall be paid by the state. In case the three veterinarians or any two of them find such animal to be affected with such infectious, contagious, or otherwise transmissible disease, the expense of the examination shall be paid by the person making the protest. The department and the person making such protest shall be bound by the result of such examination.

Sec. 227. Section 60-3,135, Revised Statutes Cumulative Supplement, 2006, is amended to read:

60-3,135 (1)(a) Undercover license plates may be issued to state, county, city, or village law enforcement agencies and shall be used only for legitimate criminal investigatory purposes. Undercover license plates may also be issued to the Nebraska State Patrol, the Game and Parks Commission, deputy state sheriffs employed by the Nebraska Brand Committee and State Fire Marshal for state law enforcement purposes, persons employed by the Tax Commissioner for state revenue enforcement purposes, the Department of Health and Human Services for the purposes of communicable disease control, ~~or for~~

the prevention and control of those communicable diseases which endanger the public health, ~~the Department of Health and Human Services Regulation and Licensure~~ in the enforcement of drug control laws, or ~~for~~ other investigation purposes, the Department of Agriculture for special investigative purposes, and the Insurance Fraud Prevention Division of the Department of Insurance for investigative purposes. Undercover license plates shall not be used on personally owned vehicles or for personal use of government-owned vehicles.

(b) The director shall prescribe a form for agencies to apply for undercover license plates. The form shall include a space for the name and signature of the contact person for the requesting agency, a statement that the undercover license plates are to be used only for legitimate criminal investigatory purposes, and a statement that undercover license plates are not to be used on personally owned vehicles or for personal use of government-owned vehicles.

(2) The agency shall include the name and signature of the contact person for the agency on the form and pay the fee prescribed in section 60-3,102. If the undercover license plates will be used for the investigation of a specific event rather than for ongoing investigations, the agency shall designate on the form an estimate of the length of time the undercover license plates will be needed. The contact person in the agency shall sign the form and verify the information contained in the form.

(3) Upon receipt of a completed form, the director shall determine whether the undercover license plates will be used by an approved agency for a legitimate purpose pursuant to subsection (1) of this section. If the director determines that the undercover license plates will be used for such a purpose, he or she may issue the undercover license plates in the form and under the conditions he or she determines to be necessary. The decision of the director regarding issuance of undercover license plates is final.

(4) The department shall keep records pertaining to undercover license plates confidential, and such records shall not be subject to public disclosure.

(5) The contact person shall return the undercover license plates to the department if:

(a) The undercover license plates expire and are not renewed;

(b) The purpose for which the undercover license plates were issued has been completed or terminated; or

(c) The director requests their return.

(6) A state agency, board, or commission that uses motor vehicles from the transportation services bureau of the Department of Administrative Services shall notify the bureau immediately after undercover license plates have been assigned to the motor vehicle and shall provide the equipment and license plate number and the undercover license plate number to the bureau. The transportation services bureau shall maintain a list of state-owned motor vehicles which have been assigned undercover license plates. The list shall be confidential and not be subject to public disclosure.

(7) The contact person shall be held accountable to keep proper records of the number of undercover plates possessed by the agency, the particular license plate numbers for each motor vehicle, and the person who is assigned to the motor vehicle. This record shall be confidential and not be subject to public disclosure.

Sec. 228. Section 60-480.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-480.01 (1)(a) Undercover drivers' licenses may be issued to state, county, city, or village law enforcement agencies and shall be used only for legitimate criminal investigatory purposes. Undercover drivers' licenses may also be issued to the Nebraska State Patrol, the Game and Parks Commission, deputy state sheriffs employed by the Nebraska Brand Committee and State Fire Marshal for state law enforcement purposes, persons employed by the Tax Commissioner for state revenue enforcement purposes, the Department of Health and Human Services for the purposes of communicable disease control, ~~or for~~ the prevention and control of those communicable diseases which endanger the public health, ~~the Department of Health and Human Services Regulation and Licensure~~ in the enforcement of drug control laws, or ~~for~~ other investigation purposes, and the Department of Agriculture for special investigative purposes. Undercover drivers' licenses are not for personal use.

(b) The director shall prescribe a form for agencies to apply for undercover drivers' licenses. The form shall include a space for the name and signature of the contact person for the requesting agency, a statement that the undercover drivers' licenses are to be used only for legitimate criminal investigatory purposes, and a statement that undercover drivers' licenses are not for personal use.

(2) The agency shall include the name and signature of the

contact person for the agency on the form and pay the fees prescribed in section 60-4,115. If the undercover drivers' licenses will be used for the investigation of a specific event rather than for ongoing investigations, the agency shall designate on the form an estimate of the length of time the undercover drivers' licenses will be needed. The contact person in the agency shall sign the form and verify the information contained in the form.

(3) Upon receipt of a completed form, the director shall determine whether the undercover drivers' licenses will be used by an approved agency for a legitimate purpose pursuant to subsection (1) of this section. If the director determines that the undercover drivers' licenses will be used for such a purpose, he or she may issue the undercover drivers' licenses in the form and under the conditions he or she determines to be necessary. The decision of the director regarding issuance of undercover drivers' licenses is final.

(4) The Department of Motor Vehicles shall keep records pertaining to undercover drivers' licenses confidential, and such records shall not be subject to public disclosure. Any person who receives information pertaining to undercover drivers' licenses in the course of his or her employment and who discloses any such information to any unauthorized individual shall be guilty of a Class III misdemeanor.

(5) The contact person shall return the undercover drivers' licenses to the Department of Motor Vehicles if:

- (a) The undercover drivers' licenses expire and are not renewed;
- (b) The purpose for which the undercover drivers' licenses were issued has been completed or terminated;
- (c) The persons for whom the undercover drivers' licenses were issued cease to be employees of the agency; or
- (d) The director requests their return.

Sec. 229. Section 60-493, Reissue Revised Statutes of Nebraska, is amended to read:

60-493 When a person applies for an operator's license or state identification card, the county treasurer or examiner of the Department of Motor Vehicles shall distribute a brochure provided by an organ and tissue procurement organization and approved by the Department of Health and Human Services ~~Regulation and Licensure~~ containing a description and explanation of the Uniform Anatomical Gift Act to each person applying for a new or renewal license or card.

If an individual desires to receive additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska as indicated on an application or examiner's certificate under section 60-484, 60-4,144, or 60-4,181, the department shall notify a representative of the federally designated organ procurement organization in Nebraska within five working days of the name and address of such individual.

Sec. 230. Section 60-4,118.02, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,118.02 (1) There is hereby created the Health Advisory Board which shall consist of six health care providers appointed by the director with the advice and recommendation of the ~~Director of Regulation and Licensure~~. Department of Health and Human Services. The members of the board shall consist of one general practice physician, one physician engaged in the practice of ophthalmology, one physician engaged in the practice of orthopedic surgery, one physician engaged in the practice of neurological medicine and surgery, one optometrist, and one psychiatrist. Each member of the board shall be licensed to practice his or her profession pursuant to the Uniform Licensing Law.

(2) Of the initial members of the board, two shall be appointed for four years, two shall be appointed for three years, and two shall be appointed for two years. Thereafter, each member shall be appointed for a term of four years and until a successor is appointed and qualified. If a vacancy occurs for any reason other than the expiration of a term, the Director of Motor Vehicles may appoint a person licensed in the same type of professional practice as the member being replaced to serve out the unexpired term. Members of the board shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The board shall meet as necessary at the call of the director. At the initial meeting of the board following completion of the initial appointments, the board shall select from among its members a chairperson and shall designate any other officers or committees as it deems necessary. The board may select officers and committees annually or as necessary to fill vacancies and to carry out duties of the board.

Sec. 231. Section 60-4,164.01, Reissue Revised Statutes of Nebraska, is amended to read:

60-4,164.01 (1) Any physician, registered nurse, other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act, a clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act, as amended, to withdraw human blood for scientific or medical purposes, or a hospital shall be an agent of the State of Nebraska when performing the act of withdrawing blood at the request of a peace officer pursuant to section 60-4,164. The state shall be liable in damages for any illegal or negligent acts or omissions of such agents in performing the act of withdrawing blood. The agent shall not be individually liable in damages or otherwise for any act done or omitted in performing the act of withdrawing blood at the request of a peace officer pursuant to such section except for acts of willful, wanton, or gross negligence of the agent or of persons employed by such agent.

(2) Any person listed in subsection (1) of this section withdrawing a blood specimen for purposes of section 60-4,164 shall, upon request, furnish to any law enforcement agency or the person being tested a certificate stating that such specimen was taken in a medically acceptable manner. The certificate shall be signed under oath before a notary public and shall be admissible in any proceeding as evidence of the statements contained in the certificate. The form of the certificate shall be prescribed by the Department of Health and Human Services ~~Regulation and Licensure~~ and such forms shall be made available to the persons listed in subsection (1) of this section.

Sec. 232. Section 60-6,104, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,104 All samples and tests of body fluids under sections 60-6,101 to 60-6,103 shall be submitted to and performed by an individual possessing a valid permit issued by the Department of Health and Human Services ~~Regulation and Licensure~~ for such purpose. Such tests shall be performed according to methods approved by the department. Such individual shall promptly perform such analysis and report the results thereof to the official submitting the sample.

Sec. 233. Section 60-6,107, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,107 (1) Except as provided in subsection (2) of this section, the Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt necessary rules and regulations for the administration of the provisions of sections 60-6,101 to 60-6,106.

(2) The Department of Roads shall adopt and promulgate rules and regulations which shall provide for the release and disclosure of the results of tests conducted under sections 60-6,102 and 60-6,103.

Sec. 234. Section 60-6,201, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,201 (1) Any test made under section 60-6,197, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution under a state statute or city or village ordinance involving operating a motor vehicle while under the influence of alcoholic liquor or drugs or involving driving or being in actual physical control of a motor vehicle when the concentration of alcohol in the blood or breath is in excess of allowable levels.

(2) Any test made under section 60-6,211.02, if made in conformity with the requirements of this section, shall be competent evidence in any prosecution involving operating or being in actual physical control of a motor vehicle in violation of section 60-6,211.01.

(3) To be considered valid, tests of blood, breath, or urine made under section 60-6,197 or tests of blood or breath made under section 60-6,211.02 shall be performed according to methods approved by the Department of Health and Human Services ~~Regulation and Licensure~~ and by an individual possessing a valid permit issued by such department for such purpose, except that a physician, registered nurse, or other trained person employed by a licensed health care facility or health care service which is defined in the Health Care Facility Licensure Act or clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as such act existed on September 1, 2001, or Title XVIII or XIX of the federal Social Security Act, as such act existed on September 1, 2001, to withdraw human blood for scientific or medical purposes, acting at the request of a peace officer, may withdraw blood for the purpose of a test to determine the alcohol concentration or the presence of drugs and no permit from the department shall be required for such person to withdraw blood pursuant to such an order. The department may approve satisfactory techniques or methods to perform such tests and may ascertain the qualifications and competence of individuals to perform such tests and issue permits which shall be subject to termination or

revocation at the discretion of the department.

(4) A permit fee may be established by regulation by the department which shall not exceed the actual cost of processing the initial permit. Such fee shall be charged annually to each permitholder. The fees shall be used to defray the cost of processing and issuing the permits and other expenses incurred by the department in carrying out this section. The fee shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Regulation and Licensure Cash Fund Health and Human Services Cash Fund as a laboratory service fee.

(5) Relevant evidence shall not be excluded in any prosecution under a state statute or city or village ordinance involving operating a motor vehicle while under the influence of alcoholic liquor or drugs or involving driving or being in actual physical control of a motor vehicle when the concentration of alcohol in the blood or breath is in excess of allowable levels on the ground that the evidence existed or was obtained outside of this state.

Sec. 235. Section 60-6,202, Reissue Revised Statutes of Nebraska, is amended to read:

60-6,202 (1) Any physician, registered nurse, other trained person employed by a licensed health care facility or health care service defined in the Health Care Facility Licensure Act, a clinical laboratory certified pursuant to the federal Clinical Laboratories Improvement Act of 1967, as amended, or Title XVIII or XIX of the federal Social Security Act, as amended, to withdraw human blood for scientific or medical purposes, or a hospital shall be an agent of the State of Nebraska when performing the act of withdrawing blood at the request of a peace officer pursuant to sections 60-6,197 and 60-6,211.02. The state shall be liable in damages for any illegal or negligent acts or omissions of such agents in performing the act of withdrawing blood. The agent shall not be individually liable in damages or otherwise for any act done or omitted in performing the act of withdrawing blood at the request of a peace officer pursuant to such sections except for acts of willful, wanton, or gross negligence of the agent or of persons employed by such agent.

(2) Any person listed in subsection (1) of this section withdrawing a blood specimen for purposes of section 60-6,197 or 60-6,211.02 shall, upon request, furnish to any law enforcement agency or the person being tested a certificate stating that such specimen was taken in a medically acceptable manner. The certificate shall be signed under oath before a notary public and shall be admissible in any proceeding as evidence of the statements contained in the certificate. The form of the certificate shall be prescribed by the Department of Health and Human Services Regulation and Licensure and such forms shall be made available to the persons listed in subsection (1) of this section.

Sec. 236. Section 68-126, Reissue Revised Statutes of Nebraska, is amended to read:

68-126 ~~The Director of Finance and Support~~ shall immediately Department of Health and Human Services shall adopt and promulgate rules and regulations establishing maximum payments for all health services furnished to recipients of public assistance. Each county shall, not later than December 31, 1984, establish a standard of need for medical services furnished, pursuant to section 68-104, by the counties to indigent persons who are not eligible for other medical assistance programs. This standard shall not exceed the Office of Management and Budget income poverty guidelines.

Sec. 237. Section 68-129, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-129 ~~The Director~~ Department of Health and Human Services shall, by rule and regulation, when determining need for public assistance on the basis of available resources, exclude from the definition of available resources of an applicant for assistance either the funds deposited in an irrevocable trust fund created pursuant to section 12-1106 or up to four thousand dollars, increased annually as provided in this section, of the amount paid for a policy of insurance the proceeds of which are specifically and irrevocably designated, assigned, or pledged for the payment of the applicant's burial expenses. The Department of Health and Human Services shall increase such amount annually on September 1 beginning with the year 2006 by the percentage change in the Consumer Price Index for All Urban Consumers published by the Federal Bureau of Labor Statistics at the close of the twelve-month period ending on August 31 of such year. This section shall not preclude the eligibility for assistance of an applicant who has purchased such a policy of insurance prior to July 9, 1988, unless such applicant is subject to subdivision (3) of section 68-1002.

Sec. 238. Section 68-130, Reissue Revised Statutes of Nebraska, is



amended to read:

68-130 Counties shall maintain, at no additional cost to the Department of Health and Human Services, ~~Finance and Support~~, office and service facilities used for the administration of the public assistance programs as such facilities existed on April 1, 1983.

Sec. 239. Section 68-309, Reissue Revised Statutes of Nebraska, is amended to read:

68-309 The Department of Health and Human Services ~~Finance and Support~~ shall be the sole agency of the State of Nebraska to administer the State Assistance Fund for assistance to the aged, blind, or disabled, aid to dependent children, medical assistance, medically handicapped children's services, child welfare services, and such other assistance and services as may be made available to the State of Nebraska by the government of the United States.

Sec. 240. Section 68-312, Reissue Revised Statutes of Nebraska, is amended to read:

68-312 The Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ shall have has the power to establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files, and communications of the state. The use of such records, papers, files, and communications by any other agency or department of government to which they may be furnished shall be limited to the purposes for which they are furnished.

Sec. 241. Section 68-313, Reissue Revised Statutes of Nebraska, is amended to read:

68-313 It shall be unlawful, except as permitted by section 68-313.01 and except for purposes directly connected with the administration of general assistance, medically handicapped children's services, medical assistance, assistance to the aged, blind, or disabled, or aid to dependent children, and in accordance with the rules and regulations of the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~, for any person or persons to solicit, disclose, receive, make use of, authorize, knowingly permit, participate in, or acquiesce in the use of, any list of or names of, any information concerning, or persons applying for or receiving such aid or assistance, directly or indirectly derived from the records, papers, files, or communications of the state, or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

Sec. 242. Section 68-703.01, Reissue Revised Statutes of Nebraska, is amended to read:

68-703.01 The Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ shall have has the authority to use any funds which may be made available through an agency of the government of the United States to reimburse any county of this state, either in whole or in part, for the following expenditures: (1) Employment of staff whose duties involve the giving or strengthening of services to children, (2) the return of any nonresident child to his or her place of residence when such child shall be found in the county, and (3) the temporary cost of board and care of a needy child who by necessity requires care in a foster home.

Sec. 243. Section 68-716, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-716 An application for medical assistance shall give a right of subrogation to the Department of Health and Human Services ~~Finance and Support~~ or its assigns. Subject to sections 68-921 to 68-925, subrogation shall include every claim or right which the applicant may have against a third party when such right or claim involves money for medical care. The third party shall be liable to make payments directly to the department or its assigns as soon as he or she is notified in writing of the valid claim for subrogation under this section.

Sec. 244. Section 68-717, Reissue Revised Statutes of Nebraska, is amended to read:

68-717 The Department of Health and Human Services ~~and the Department of Health and Human Services Finance and Support~~ shall assume the responsibility for all public assistance, including aid to families with dependent children, emergency assistance, assistance to the aged, blind, or disabled, medically handicapped children's services, commodities, food stamps, and medical assistance.

Sec. 245. Section 68-718, Reissue Revised Statutes of Nebraska, is

amended to read:

68-718 All furniture, equipment, books, files, records, and personnel utilized by the county divisions or boards of public welfare for the administration of public assistance programs shall be transferred and delivered to the Department of Health and Human Services, ~~Finance and Support~~. The transferred employees shall not lose any accrued benefits or status due to the transfer and shall receive the same benefits as other state employees, including participation in the State Employees Retirement Fund.

Sec. 246. Section 68-907, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-907 For purposes of the Medical Assistance Act:

(1) Committee means the Health and Human Services Committee of the Legislature;

(2) Department means the Department of Health and Human Services; ~~Finance and Support~~;

~~(3) Director means the Director of Finance and Support;~~

~~(4) (3) Medicaid Reform Plan means the Medicaid Reform Plan submitted on December 1, 2005, pursuant to the Medicaid Reform Act enacted pursuant to Laws 2005, LB 709;~~

~~(5) (4) Medicaid state plan means the comprehensive written document, developed and amended by the department and approved by the federal Centers for Medicare and Medicaid Services, which describes the nature and scope of the medical assistance program and provides assurances that the department will administer the program in compliance with federal requirements;~~

~~(6) (5) Provider means a person providing health care or related services under the medical assistance program; and~~

~~(7) (6) Waiver means the waiver of applicability to the state of one or more provisions of federal law relating to the medical assistance program based on an application by the department and approval of such application by the federal Centers for Medicare and Medicaid Services.~~

Sec. 247. Section 68-908, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-908 (1) The department shall administer the medical assistance program.

(2) The department may (a) enter into contracts and interagency agreements, (b) adopt and promulgate rules and regulations, (c) adopt fee schedules, (d) apply for and implement waivers and managed care plans for eligible recipients, and (e) perform such other activities as necessary and appropriate to carry out its duties under the Medical Assistance Act.

(3) The department shall maintain the confidentiality of information regarding applicants for or recipients of medical assistance and such information shall only be used for purposes related to administration of the medical assistance program and the provision of such assistance or as otherwise permitted by federal law.

(4) (a) The department shall prepare a biennial summary and analysis of the medical assistance program for legislative and public review, including, but not limited to, a description of eligible recipients, covered services, provider reimbursement, program trends and projections, program budget and expenditures, the status of implementation of the Medicaid Reform Plan, and recommendations for program changes.

(b) The department shall provide a draft report of such summary and analysis to the Medicaid Reform Council no later than October 1 of each even-numbered year. The council shall conduct a public meeting no later than October 15 of such year to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the ~~director~~ department and the committee no later than November 1 of such year. The department shall submit a final report of such summary and analysis to the Governor, the Legislature, and the council no later than December 1 of such year.

Sec. 248. Section 68-913, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-913 (1) Each public school district shall annually, at the beginning of the school year, provide written information supplied by the ~~Department of Health and Human Services and the Department of Health and Human Services Finance and Support~~ department to every student describing the availability of children's health services provided under the medical assistance program.

(2) Each hospital shall provide the mother of every child born in such hospital, at the time of such birth, written information provided by the ~~departments~~ department describing the availability of children's health services provided under the medical assistance program.

(3) The ~~departments~~ department shall develop and implement other activities designed to increase public awareness of the availability of children's health services provided under the medical assistance program. Such activities shall include materials and efforts designed to increase participation in the program by minority populations.

Sec. 249. Section 68-915, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-915 The following persons shall be eligible for medical assistance:

- (1) Dependent children as defined in section 43-504;
- (2) Aged, blind, and disabled persons as defined in sections 68-1002 to 68-1005;
- (3) Children under nineteen years of age who are eligible under section 1905(a)(i) of the federal Social Security Act;
- (4) Persons who are presumptively eligible as allowed under sections 1920 and 1920B of the federal Social Security Act;
- (5) Children under nineteen years of age and pregnant women with a family income equal to or less than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline, as allowed under Title XIX and Title XXI of the federal Social Security Act, without regard to resources. Children described in this subdivision and subdivision (6) of this section shall remain eligible for six consecutive months from the date of initial eligibility prior to redetermination of eligibility. The department may review eligibility monthly thereafter pursuant to rules and regulations adopted and promulgated by the department. The department may determine upon such review that a child is ineligible for medical assistance if such child no longer meets eligibility standards established by the department;
- (6) For purposes of Title XIX of the federal Social Security Act as provided in subdivision (5) of this section, children with a family income as follows:
  - (a) Equal to or less than one hundred fifty percent of the Office of Management and Budget income poverty guideline with eligible children one year of age or younger;
  - (b) Equal to or less than one hundred thirty-three percent of the Office of Management and Budget income poverty guideline with eligible children over one year of age and under six years of age; or
  - (c) Equal to or less than one hundred percent of the Office of Management and Budget income poverty guideline with eligible children six years of age or older and less than nineteen years of age;
- (7) Persons who are medically needy caretaker relatives as allowed under 42 U.S.C. 1396d(a)(ii);
- (8) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), disabled persons as defined in section 68-1005 with a family income of less than two hundred fifty percent of the Office of Management and Budget income poverty guideline and who, but for earnings in excess of the limit established under 42 U.S.C. 1396d(q)(2)(B), would be considered to be receiving federal Supplemental Security Income. The ~~Department of Health and Human Services~~ department shall apply for a waiver to disregard any unearned income that is contingent upon a trial work period in applying the Supplemental Security Income standard. Such disabled persons shall be subject to payment of premiums as a percentage of family income beginning at not less than two hundred percent of the Office of Management and Budget income poverty guideline. Such premiums shall be graduated based on family income and shall not be less than two percent or more than ten percent of family income; and
- (9) As allowed under 42 U.S.C. 1396a(a)(10)(A)(ii), persons who:
  - (a) Have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under Title XV of the federal Public Health Service Act, 42 U.S.C. 300k et seq., in accordance with the requirements of section 1504 of such act, 42 U.S.C. 300n, and who need treatment for breast or cervical cancer, including precancerous and cancerous conditions of the breast or cervix;
  - (b) Are not otherwise covered under creditable coverage as defined in section 2701(c) of the federal Public Health Service Act, 42 U.S.C. 300gg(c);
  - (c) Have not attained sixty-five years of age; and
  - (d) Are not eligible for medical assistance under any mandatory categorically needy eligibility group.

Eligibility shall be determined under this section using an income budgetary methodology that determines children's eligibility at no greater than one hundred eighty-five percent of the Office of Management and Budget income poverty guideline and adult eligibility using adult income

standards no greater than the applicable categorical eligibility standards established pursuant to state or federal law. The department shall determine eligibility under this section pursuant to such income budgetary methodology and subdivision (1)(s) of section 68-1713.

Sec. 250. Section 68-921, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-921 For purposes of sections 68-921 to 68-925:

(1) Assets means property which is not exempt from consideration in determining eligibility for medical assistance under rules and regulations adopted and promulgated under section 68-922;

(2) Community spouse monthly income allowance means the amount of income determined by the ~~Department of Health and Human Services~~ department in accordance with section 1924 of the federal Social Security Act, as amended, Public Law 100-360, 42 U.S.C. 1396r-5;

(3) Community spouse resource allowance means the amount of assets determined in accordance with section 1924 of the federal Social Security Act, as amended, Public Law 100-360, 42 U.S.C. 1396r-5. For purposes of 42 U.S.C. 1396r-5(f)(2)(A)(i), the amount specified by the state shall be twelve thousand dollars;

(4) Home and community-based services means services furnished under home and community-based waivers as defined in Title XIX of the federal Social Security Act, as amended, 42 U.S.C. 1396;

(5) Qualified applicant means a person (a) who applies for medical assistance on or after July 9, 1988, (b) who is under care in a state-licensed hospital, skilled nursing facility, intermediate care facility, intermediate care facility for the mentally retarded, nursing facility, assisted-living facility, or center for the developmentally disabled, as such terms are defined in the Health Care Facility Licensure Act, or an adult family home certified by the ~~Department of Health and Human Services~~ department or is receiving home and community-based services, and (c) whose spouse is not under such care or receiving such services and is not applying for or receiving medical assistance;

(6) Qualified recipient means a person (a) who has applied for medical assistance before July 9, 1988, and is eligible for such assistance, (b) who is under care in a facility certified to receive medical assistance funds or is receiving home and community-based services, and (c) whose spouse is not under such care or receiving such services and is not applying for or receiving medical assistance; and

(7) Spouse means the spouse of a qualified applicant or qualified recipient.

Sec. 251. Section 68-922, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-922 For purposes of determining medical assistance eligibility and the right to and obligation of medical support pursuant to sections 68-716, 68-915, and 68-916, a spouse may retain (1) assets equivalent to the community spouse resource allowance and (2) an amount of income equivalent to the community spouse monthly income allowance.

The ~~Department of Health and Human Services~~ department shall administer this section in accordance with section 1924 of the Social Security Act, as amended, Public Law 100-360, 42 U.S.C. 1396r-5, and shall adopt and promulgate rules and regulations as necessary to implement and enforce sections 68-921 to 68-925.

Sec. 252. Section 68-923, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-923 If a portion of the aggregate assets is designated in accordance with section 68-924:

(1) Only the assets not designated for the spouse shall be considered in determining the eligibility of an applicant for medical assistance;

(2) In determining the eligibility of an applicant, the assets designated for the spouse shall not be taken into account and proof of adequate consideration for any assignment or transfer made as a result of the designation of assets shall not be required;

(3) The assets designated for the spouse shall not be considered to be available to an applicant or recipient for future medical support and the spouse shall have no duty of future medical support of the applicant or recipient from such assets;

(4) Recovery may not be made from the assets designated for the spouse for any amount paid for future medical assistance provided to the applicant or recipient; and

(5) Neither the ~~Director of Health and Human Services~~ department nor the state shall be subrogated to or assigned any future right of the applicant

or recipient to medical support from the assets designated for the spouse.

Sec. 253. Section 68-924, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-924 A designation of assets pursuant to section 68-922 shall be evidenced by a written statement listing such assets and signed by the spouse. A copy of such statement shall be provided to the ~~Director of Health and Human Services~~ department at the time of application and shall designate assets owned as of the date of application. Failure to complete any assignments or transfers necessary to place the designated assets in sole ownership of the spouse within a reasonable time after the statement is signed as provided in rules and regulations adopted and promulgated under section 68-922 may render the applicant or recipient ineligible for assistance in accordance with such rules and regulations.

Sec. 254. Section 68-925, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-925 The ~~Department of Health and Human Services~~ department shall furnish to each qualified applicant for and each qualified recipient of medical assistance a clear and simple written statement explaining the provisions of section 68-922.

Sec. 255. Section 68-926, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-926 The Legislature finds that (1) the ~~Department of Health and Human Services and the Department of Health and Human Services Finance and Support~~ rely department relies on health insurance and claims information from private insurers to ensure accuracy in processing state benefit program payments to providers and in verifying individual recipients' eligibility, (2) delay or refusal to provide such information causes unnecessary expenditures of state funds, (3) disclosure of such information to the ~~Department of Health and Human Services and the Department of Health and Human Services Finance and Support~~ department is permitted pursuant to the federal Health Insurance Portability and Accountability privacy rules under 45 C.F.R. part 164, and (4) for medical assistance program recipients who also have other insurance coverage, including coverage by licensed and self-funded insurers, the ~~Department of Health and Human Services Finance and Support~~ department is required by 42 U.S.C. 1396a(a)(25) to assure that licensed and self-funded insurers coordinate benefits with the program.

Sec. 256. Section 68-927, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-927 For purposes of sections 68-926 to 68-933:

(1) Coordinate benefits means:

(a) Provide to the ~~Department of Health and Human Services or the Department of Health and Human Services Finance and Support~~ department information regarding the licensed insurer's or self-funded insurer's existing coverage for an individual who is eligible for a state benefit program; and

(b) Meet payment obligations;

(2) Coverage information means health information possessed by a licensed insurer or self-funded insurer that is limited to the following information about an individual:

(a) Eligibility for coverage under a health plan;

(b) Coverage of health care under the health plan; or

(c) Benefits and payments associated with the health plan;

(3) Health plan means any policy of insurance issued by a licensed insurer or any employee benefit plan offered by a self-funded insurer that provides for payment to or on behalf of an individual as a result of an illness, disability, or injury or change in a health condition;

(4) Individual means a person covered by a state benefit program, including the medical assistance program, or a person applying for such coverage;

(5) Licensed insurer means any insurer, except a self-funded insurer, including a fraternal benefit society, producer, or other person licensed or required to be licensed, authorized or required to be authorized, or registered or required to be registered pursuant to the insurance laws of the state; and

(6) Self-funded insurer means any employer or union who or which provides a self-funded employee benefit plan.

Sec. 257. Section 68-928, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-928 (1) Except as provided in subsection (2) of this section, at the request of the ~~Department of Health and Human Services or the Department of Health and Human Services Finance and Support,~~ department, a licensed insurer or a self-funded insurer shall provide coverage information to the ~~requesting~~ department without an individual's authorization for purposes of:

- (a) Determining an individual's eligibility for state benefit programs, including the medical assistance program; or
- (b) Coordinating benefits with state benefit programs.

Such information shall be provided within thirty days after the date of request unless good cause is shown. Requests for coverage information shall specify individual recipients for whom information is being requested.

(2) (a) Coverage information requested pursuant to subsection (1) of this section regarding a limited benefit policy shall be limited to whether a specified individual has coverage and, if so, a description of that coverage, and such information shall be used solely for the purposes of subdivision (1) (a) of this section.

(b) For purposes of this section, limited benefit policy means a policy of insurance issued by a licensed insurer that consists only of one or more, or any combination of the following:

- (i) Coverage only for accident or disability income insurance, or any combination thereof;
- (ii) Coverage for specified disease or illness; or
- (iii) Hospital indemnity or other fixed indemnity insurance.

Sec. 258. Section 68-930, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-930 The Department of Health and Human Services Finance and Support department may impose and collect a civil penalty on a self-funded insurer who violates the requirements of section 68-928 if the department finds that the self-funded insurer:

- (1) Committed the violation flagrantly and in conscious disregard of the requirements; or
- (2) Has committed violations with such frequency as to indicate a general business practice to engage in that type of conduct.

The civil penalty shall not be more than one thousand dollars for each violation, not to exceed an aggregate penalty of thirty thousand dollars, unless the violation by the self-funded insurer was committed flagrantly and in conscious disregard of section 68-928, in which case the penalty shall not be more than fifteen thousand dollars for each violation, not to exceed an aggregate penalty of one hundred fifty thousand dollars.

Sec. 259. Section 68-931, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-931 The Department of Health and Human Services Finance and Support department is authorized to recover all amounts paid or to be paid to state benefit programs as a result of failure to coordinate benefits by a licensed insurer or a self-funded insurer.

Sec. 260. Section 68-932, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-932 The Department of Health and Human Services Finance and Support department shall establish a process by rule and regulation for resolving any violation by a self-funded insurer of section 68-928 and for assessing the financial penalties contained in section 68-930. Any appeal of an action by the department under such policies shall be in accordance with the Administrative Procedure Act.

Sec. 261. Section 68-940, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-940 (1) In determining the amount of any penalties or damages awarded under the False Medicaid Claims Act, the following shall be taken into account:

- (a) The nature of claims and the circumstances under which they were presented;
- (b) The degree of culpability and history of prior offenses of the person presenting the claims;
- (c) Coordination of the total penalties and damages arising from the same claims, goods, or services, whether based on state or federal statute; and
- (d) Such other matters as justice requires.

(2) (a) Any person who presents a false medicaid claim is subject to civil liability as provided in section 68-936, except when the court finds that:

- (i) The person committing the violation of the False Medicaid Claims Act furnished officials of the state responsible for investigating violations of the act with all information known to such person about the violation within thirty days after the date on which the defendant first obtained the information;
- (ii) Such person fully cooperated with any state investigation of such violation; and
- (iii) At the time such person furnished the state with the

information about the violation, no criminal prosecution, civil action, or administrative action had commenced under the act with respect to such violation and the person did not have actual knowledge of the existence of an investigation into such violation.

(b) The court may assess not more than two times the amount of the false medicaid claims submitted because of the action of a person coming within the exception under subdivision (2)(a) of this section, and such person is also liable for the state's costs and attorney's fees for a civil action brought to recover any penalty or damages.

(3) Amounts recovered under the False Medicaid Claims Act shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services~~ Cash Fund, except that the State Treasurer shall distribute civil penalties in accordance with Article VII, section 5, of the Constitution of Nebraska.

Sec. 262. Section 68-948, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-948 (1) The Medicaid Reform Council is established. The council shall consist of ten persons appointed by the chairperson of the committee, in consultation with the committee, the Governor, and the ~~director~~ department. The council shall include, but not be limited to, at least one representative from each of the following: Providers, recipients of medical assistance, advocates for such recipients, business representatives, insurers, and elected officials. The chairperson of the committee shall appoint the chairperson of the council. Members of the council may be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(2) The council shall (a) oversee and support implementation of reforms to the medical assistance program, including, but not limited to, reforms such as those contained in the Medicaid Reform Plan, (b) conduct at least two public meetings annually and other meetings at the call of the chairperson of the council, in consultation with the ~~director~~ department and the chairperson of the committee, and (c) provide comments and recommendations to the department regarding the administration of the medical assistance program and any proposed changes to such program.

(3) The Medicaid Reform Council and this section terminate on June 30, 2010.

Sec. 263. Section 68-949, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-949 (1) It is the intent of the Legislature that the department implement reforms to the medical assistance program such as those contained in the Medicaid Reform Plan, including (a) an incremental expansion of home and community-based services for aged persons and persons with disabilities consistent with such plan, (b) an increase in care coordination or disease management initiatives to better manage medical assistance expenditures on behalf of high-cost recipients with multiple or chronic medical conditions, and (c) other reforms as deemed necessary and appropriate by the department, in consultation with the committee and the Medicaid Reform Council.

(2)(a) The department shall develop recommendations relating to the provision of health care and related services for medicaid-eligible children under the state children's health insurance program as allowed under Title XIX and Title XXI of the federal Social Security Act. Such study and recommendations shall include, but not be limited to, the organization and administration of such program, the establishment of premiums, copayments, and deductibles under such program, and the establishment of limits on the amount, scope, and duration of services offered to recipients under such program.

(b) The department shall provide a draft report of such recommendations to the committee and the Medicaid Reform Council no later than October 1, 2007. The council shall conduct a public meeting no later than October 15, 2007, to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the ~~director~~ department and the committee no later than November 1, 2007. The department shall provide a final report of such recommendations to the Governor, the committee, and the council no later than December 1, 2007.

(3)(a) The department shall develop recommendations for further modification or replacement of the defined benefit structure of the medical assistance program. Such recommendations shall be consistent with the public policy in section 68-905 and shall consider the needs and resources of low-income Nebraska residents who are eligible or may become eligible for medical assistance, the experience and outcomes of other states that have developed and implemented such changes, and other relevant factors as determined by the department.

(b) The department shall provide a draft report of such

recommendations to the committee and the Medicaid Reform Council no later than October 1, 2008. The council shall conduct a public meeting no later than October 15, 2008, to discuss and receive public comment regarding such report. The council shall provide any comments and recommendations regarding such report in writing to the ~~director~~ department and the committee no later than November 1, 2008. The department shall provide a final report of such recommendations to the Governor, the committee, and the council no later than December 1, 2008.

Sec. 264. Section 68-1001.01, Reissue Revised Statutes of Nebraska, is amended to read:

68-1001.01 For the purpose of adding to the security and social adjustment of former and potential recipients of assistance to the aged, blind, and disabled, and of medical assistance, the ~~Director~~ Department of Health and Human Services is authorized to promulgate rules and regulations providing for services to such persons.

Sec. 265. Section 68-1002, Reissue Revised Statutes of Nebraska, is amended to read:

68-1002 In order to qualify for assistance to the aged, blind, or disabled, an individual:

(1) Must be a bona fide resident of the State of Nebraska, except that a resident of another state who enters the State of Nebraska solely for the purpose of receiving care in a home licensed by the Department of Health and Human Services ~~Regulation and Licensure~~ shall not be deemed to be a bona fide resident of Nebraska while such care is being provided;

(2) ~~Is not~~ Shall not be receiving care or services as an inmate of a public institution, except as a patient in a medical institution, and if the individual is a patient in an institution for tuberculosis or mental diseases, he or she has attained the age of sixty-five years;

(3) ~~Has not~~ Shall not have deprived himself or herself directly or indirectly of any property whatsoever for the purpose of qualifying for assistance to the aged, blind, or disabled;

(4) May receive care in a public or private institution only if such institution is subject to a state authority or authorities which shall be responsible for establishing and maintaining standards for such institutions; and

(5) Must be in need of shelter, maintenance, or medical care.

Sec. 266. Section 68-1007, Reissue Revised Statutes of Nebraska, is amended to read:

68-1007 In determining need for assistance to the aged, blind, or disabled, the ~~Director~~ Department of Health and Human Services shall take into consideration all other income and resources of the individual claiming such assistance, as well as any expenses reasonably attributable to the earning of any such income, except as otherwise provided in this section. In making such determination with respect to any individual who is blind, there shall be disregarded the first eighty-five dollars per month of earned income plus one-half of earned income in excess of eighty-five dollars per month and, for a period not in excess of twelve months, such additional amounts of other income and resources, in the case of an individual who has an approved plan for achieving self-support, as may be necessary for the fulfillment of such plan. In making such determination with respect to an individual who has attained age sixty-five, or who is permanently and totally disabled, and is claiming aid to the aged, blind, or disabled, the ~~Director of Health and Human Services~~ department shall disregard earned income at least to the extent such income was disregarded on January 1, 1972, as provided in 42 U.S.C. 1396a(f).

Sec. 267. Section 68-1008, Reissue Revised Statutes of Nebraska, is amended to read:

68-1008 Upon the filing of an application for assistance to the aged, blind, or disabled, the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure,~~ and the ~~Department of Health and Human Services Finance and Support~~ shall make such investigation as it deems necessary to determine the circumstances existing in each case. Each applicant and recipient shall be notified in writing as to (1) the approval or disapproval of any application, (2) the amount of payments awarded, (3) any change in the amount of payments awarded, and (4) the discontinuance of payments.

Sec. 268. Section 68-1014, Reissue Revised Statutes of Nebraska, is amended to read:

68-1014 If any guardian or conservator shall have been appointed to take charge of the property of any recipient of assistance to the aged, blind, or disabled, aid to dependent children, or medical assistance, such assistance payments shall be made to the guardian or conservator upon his or her filing with the ~~Director~~ Department of Health and Human Services a certified copy of



his or her letters of guardianship or conservatorship.

Sec. 269. Section 68-1015, Reissue Revised Statutes of Nebraska, is amended to read:

68-1015 For the purpose of any investigation or hearing, the ~~Director of Health and Human Services, the Director of Regulation and Licensure, and the Director of Finance and Support,~~ chief executive officer of the Department of Health and Human Services and the division directors appointed pursuant to section 6 of this act, through his or her authorized agents, shall have the power to compel, by subpoena, the attendance and testimony of witnesses and the production of books and papers. Witnesses may be examined on oath or affirmation.

Sec. 270. Section 68-1016, Reissue Revised Statutes of Nebraska, is amended to read:

68-1016 The ~~Director of Health and Human Services~~ chief executive officer of the Department of Health and Human Services, or his or her designated representative, 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 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 department~~ a written notice of appeal setting forth the facts on which the appeal is based. The ~~director department~~ 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 of the department. On the basis of evidence adduced, the ~~director~~ duly authorized agent shall enter a final order on such appeal, which order shall be transmitted to the appellant.

Sec. 271. 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 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. 272. Section 68-1095.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1095.01 The Long-Term Care Partnership Program is established. The program shall be administered by the Department of Health and Human Services ~~Finance and Support~~ in accordance with federal requirements on state long-term care partnership programs. In order to implement the program, the department shall file a state plan amendment with the federal Centers for Medicare and Medicaid Services pursuant to the requirements set forth in 42 U.S.C. 1396p(b), as such section existed on March 1, 2006.

Sec. 273. Section 68-1101, Reissue Revised Statutes of Nebraska, is amended to read:

68-1101 The ~~Department of Health and Human Services~~ Division of Medicaid and Long-Term Care Advisory Committee on Aging is created. The committee shall consist of twelve members, one from each of the planning-and-service areas as designated in the Nebraska Community Aging Services Act and the remaining members from the state at large.

Any member serving on the ~~Department on Aging~~ Department of Health and Human Services Advisory Committee on Aging on January 1, 1997, July 1, 2007, shall continue to serve until his or her term expires. As the terms of the members expire, the Governor shall, on or before March 1 of such year, appoint or reappoint a member of the committee for a term of four years.

Each area agency on aging serving a designated planning-and-service area shall recommend to the Governor the names of persons qualified to represent the senior population of the planning-and-service area. Any vacancy on the committee shall be filled for the unexpired term. A vacancy shall exist when a member of the committee ceases to be a resident of the planning-and-service area from which he or she was appointed or reappointed. The members to be appointed to represent a planning-and-service area shall be residents of the planning-and-service area from which they are appointed. Members of the advisory committee shall not be elected public officials or staff of the Department of Health and Human Services or of an area agency on aging.

Sec. 274. Section 68-1103, Reissue Revised Statutes of Nebraska, is amended to read:

68-1103 Members of the Department of Health and Human Services Division of Medicaid and Long-Term Care Advisory Committee on Aging shall meet within thirty days after their appointment to select from the members of the committee a chairperson, and such other officers as committee members deem necessary, who shall serve for a period of two years. The committee shall elect a new chairperson every two years thereafter. The committee shall meet at regular intervals at least once each year and may hold special meetings at the call of the chairperson or at the request of a majority of the members of the committee. The committee shall meet at the seat of government or such other place as the members of the committee may designate.

Sec. 275. Section 68-1104, Reissue Revised Statutes of Nebraska, is amended to read:

68-1104 The Department of Health and Human Services Division of Medicaid and Long-Term Care Advisory Committee on Aging shall advise the Division of Medicaid and Long-Term Care of the Department of Health and Human Services regarding:

(1) The collection of facts and statistics and special studies of conditions and problems pertaining to the employment, health, financial status, recreation, social adjustment, or other conditions and problems pertaining to the general welfare of the aging of the state;

(2) Recommendations to state and local agencies serving the aging for purposes of coordinating such agencies' activities, and reports from the various state agencies and institutions on matters within the jurisdiction of the committee;

(3) The latest developments of research, studies, and programs being conducted throughout the nation on the problems and needs of the aging;

(4) The mutual exchange of ideas and information on the aging between federal, state, and local governmental agencies, private organizations, and individuals; and

(5) Cooperation with agencies, federal, state, and local or private organizations, in administering and supervising demonstration programs of services for aging designed to foster continued participation of older people in family and community life and to prevent insofar as possible the onset of dependency and the need for long-term institutional care.

The committee shall have the power to create special committees to undertake such special studies as members of the committee shall authorize and may include noncommittee members who are qualified in any field of activity related to the general welfare of the aging in the membership of such committees.

Sec. 276. Section 68-1105, Reissue Revised Statutes of Nebraska, is amended to read:

68-1105 The members of the Department of Health and Human Services Division of Medicaid and Long-Term Care Advisory Committee on Aging, and noncommittee members serving on special committees, shall receive no compensation for their services other than reimbursement for actual and necessary expenses as provided in sections 81-1174 to 81-1177. Committee expenses and any office expenses shall be paid from funds made available to the committee by the Legislature.

Sec. 277. Section 68-1204, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1204 (1) For the purpose of providing or purchasing social services described in section 68-1202, the state hereby accepts and assents to all applicable provisions of the federal Social Security Act, as such act existed on July 1, 2006. The Director of Health and Human Services and the Director of Finance and Support Department of Health and Human Services may each adopt and promulgate rules and regulations, enter into agreements, and adopt fee schedules with regard to social services described in section 68-1202.

(2) The Department of Health and Human Services department shall adopt and promulgate rules and regulations to administer funds under Title XX

of the federal Social Security Act, as such title existed on July 1, 2006, designated for specialized developmental disability services.

Sec. 278. Section 68-1205, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1205 The matching funds required to obtain the federal share of the services described in section 68-1202 may come from either state, county, or donated sources in amounts and other provisions to be determined by the ~~Director of Health and Human Services or the Director of Finance and Support-~~ Department of Health and Human Services.

Sec. 279. Section 68-1206, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1206 (1) The ~~Director of Health and Human Services and the Director of Finance and Support~~ Department of Health and Human Services shall administer the program of social services in this state. The ~~Department of Health and Human Services and the Department of Health and Human Services Finance and Support~~ department may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the ~~departments~~ department could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services.

(2) In determining the rate or rates to be paid by the ~~Department of Health and Human Services~~ department for child care as defined in section 43-2605, the ~~Director of Health and Human Services~~ department shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule shall be effective on October 1 of every year and shall be revised annually by the ~~Director of Health and Human Services.~~ department.

Sec. 280. Section 68-1207, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1207 The ~~Director~~ Department of Health and Human Services shall supervise all public child welfare services as described by law. The ~~director~~ department shall establish and maintain caseloads to carry out child welfare services which provide for adequate, timely, and indepth investigations and services to children and families. In establishing the standards for such caseloads, the ~~director~~ department shall (1) include the workload factors that may differ due to geographic responsibilities, office location, and the travel required to provide a timely response in the investigation of abuse and neglect, the protection of children, and the provision of services to children and families in a uniform and consistent statewide manner and (2) consider workload standards recommended by national child welfare organizations and factors related to the attainment of such standards. The ~~director~~ department shall consult with the appropriate employee representative in establishing such standards.

To carry out the provisions of this section, the Legislature shall provide funds for additional staff.

Sec. 281. Section 68-1207.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1207.01 The ~~Director~~ Department of Health and Human Services shall annually provide a report to the Legislature and Governor outlining the caseloads of child protective services, the factors considered in their establishment, and the fiscal resources necessary for their maintenance. Such report shall include:

(1) A comparison of caseloads established by the ~~director~~ department with the workload standards recommended by national child welfare organizations along with the amount of fiscal resources necessary to maintain such caseloads in Nebraska;

(2) (a) The number of child welfare services caseworkers and case managers employed by the State of Nebraska and child welfare services workers, providing services directly to children and families, who are under contract with the State of Nebraska or employed by a private entity under contract with the State of Nebraska and (b) statistics on the average length of employment in such positions, statewide and by health and human services area;

(3) (a) The average caseload of child welfare services caseworkers and case managers employed by the State of Nebraska and child welfare services workers, providing services directly to children and families, who are under

contract with the State of Nebraska or employed by a private entity under contract with the State of Nebraska and (b) the outcomes of such cases, including the number of children reunited with their families, children adopted, children in guardianships, placement of children with relatives, and other permanent resolutions established, statewide and by health and human services area; and

(4) The average cost of training child welfare services caseworkers and case managers employed by the State of Nebraska and child welfare services workers, providing services directly to children and families, who are under contract with the State of Nebraska or employed by a private entity under contract with the State of Nebraska, statewide and by health and human services area.

Sec. 282. Section 68-1210, Reissue Revised Statutes of Nebraska, is amended to read:

68-1210 Notwithstanding any other provision of law, the Director Department of Health and Human Services shall have the authority through rule or regulation to establish payment rates for children with special needs who are in foster care and in the custody of the Department of Health and Human Services. department.

Sec. 283. Section 68-1402, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1402 The Director of Finance and Support Department of Health and Human Services shall establish and administer a program for the medical care of persons of all ages with genetically handicapping conditions, including cystic fibrosis, hemophilia, and sickle cell disease, through physicians and health care providers that are qualified pursuant to the regulations of the Department of Health and Human Services Finance and Support department to provide such medical services. The director department shall adopt such rules and regulations pursuant to the Administrative Procedure Act, as are necessary for the implementation of the provisions of the Genetically Handicapped Persons Act. The director department shall establish priorities for the use of funds and provision of services under the Genetically Handicapped Persons Act.

Sec. 284. Section 68-1403, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1403 The program established under the Genetically Handicapped Persons Act, which shall be under the supervision of the Department of Health and Human Services, Finance and Support, shall include any or all of the following:

- (1) Initial intake and diagnostic evaluation;
- (2) The cost of blood transfusion and use of blood derivatives, or both;
- (3) Rehabilitation services, including reconstructive surgery;
- (4) Expert diagnosis;
- (5) Medical treatment;
- (6) Surgical treatment;
- (7) Hospital care;
- (8) Physical therapy;
- (9) Occupational therapy;
- (10) Materials and prescription drugs;
- (11) Appliances and their upkeep, maintenance, and care;
- (12) Maintenance, transportation, or care incidental to any other form of services; and
- (13) Appropriate and sufficient staff to carry out the provisions of the Genetically Handicapped Persons Act.

Sec. 285. Section 68-1405, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1405 The Department of Health and Human Services Finance and Support shall establish uniform standards of financial eligibility for the treatment services under the program established under the Genetically Handicapped Persons Act, including a uniform formula for the payment of services by physicians and health care providers rendered under such program and such formula for payment shall provide for reimbursement at rates similar to those set by other federal and state programs, and private entitlements. The standards of the department for financial eligibility shall be the same as those established for Medically Handicapped Children's Services, as administered by the department. All county or district health departments shall use the uniform standards for financial eligibility and uniform formula for payment established by the department. All payments shall be used in support of the program for services established under the act.

The department shall establish payment schedules for services.

Sec. 286. Section 68-1503, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1503 For purposes of the Disabled Persons and Family Support Act:

(1) Department means the Department of Health and Human Services; ~~Finance and Support;~~

(2) Disabled family member or disabled person means a person who has a medically determinable severe, chronic disability which:

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is likely to continue indefinitely;

(c) Results in substantial functional limitations in two or more of the following areas of major life activity: (i) Self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, (vii) work skills or work tolerance, and (viii) economic sufficiency; and

(d) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, vocational rehabilitation, or other services which are of lifelong or extended duration and are individually planned and coordinated; and

(3) Other support programs means all forms of local, state, or federal assistance, grants-in-aid, educational programs, or support provided by public or private funds for disabled persons or their families.

Sec. 287. Section 68-1514, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1514 ~~The Director of Finance and Support~~ chief executive officer of the department, or his or her designated representative, shall provide an opportunity for a fair hearing ~~before the department~~ to any family or disabled person who is denied support pursuant to the Disabled Persons and Family Support Act.

Sec. 288. Section 68-1521, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1521 For purposes of sections 68-1520 to 68-1528:

(1) Caregiver means an individual providing ongoing care for an individual unable to care for himself or herself;

(2) Community lifespan respite services program means a noncategorical respite services program that:

(a) Is operated by a community-based private nonprofit or for-profit agency or a public agency that provides respite services;

(b) Receives funding through the Nebraska Lifespan Respite Services Program established under section 68-1522;

(c) Serves an area in one or more of the six regional services areas of the department;

(d) Acts as a single local source for respite services information and referral; and

(e) Facilitates access to local respite services;

(3) Department means the Department of Health and Human Services; ~~Finance and Support;~~

(4) Noncategorical care means care without regard to the age, type of special needs, or other status of the individual receiving care;

(5) Provider means an individual or agency selected by a family or caregiver to provide respite services to an individual with special needs;

(6) Respite care means the provision of short-term relief to primary caregivers from the demands of ongoing care for an individual with special needs; and

(7) Respite services includes:

(a) Recruiting and screening of paid and unpaid respite care providers;

(b) Identifying local training resources and organizing training opportunities for respite care providers;

(c) Matching of families and caregivers with providers and other types of respite care;

(d) Linking families and caregivers with payment resources;

(e) Identifying, coordinating, and developing community resources for respite services;

(f) Quality assurance and evaluation; and

(g) Assisting families and caregivers to identify respite care needs and resources.

Sec. 289. Section 68-1522, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1522 ~~The Director of Finance and Support~~ department shall establish the Nebraska Lifespan Respite Services Program to develop and encourage statewide coordination of respite services and to work with community-based private nonprofit or for-profit agencies, public agencies, and interested citizen groups in the establishment of community lifespan

respite services programs. The Nebraska Lifespan Respite Services Program shall:

- (1) Provide policy and program development support, including, but not limited to, data collection and outcome measures;
- (2) Identify and promote resolution of local and state-level policy concerns;
- (3) Provide technical assistance to community lifespan respite services programs;
- (4) Develop and distribute respite services information;
- (5) Promote the exchange of information and coordination among state and local governments, community lifespan respite services programs, agencies serving individuals unable to care for themselves, families, and respite care advocates to encourage efficient provision of respite services and reduce duplication of effort;
- (6) Ensure statewide access to community lifespan respite services programs; and
- (7) Monitor and evaluate implementation of community lifespan respite services programs.

Sec. 290. Section 68-1523, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1523 (1) The department, through the Nebraska Lifespan Respite Services Program, shall coordinate the establishment of community lifespan respite services programs. The program shall accept proposals submitted in the form and manner required by the program from community-based private nonprofit or for-profit agencies or public agencies that provide respite services to operate community lifespan respite services programs. According to criteria established by the department, the Nebraska Lifespan Respite Services Program shall designate and fund agencies described in this section to operate community lifespan respite services programs.

(2) ~~The Director of Finance and Support~~ department shall create the position of program specialist for the Nebraska Lifespan Respite Services Program to administer the program.

Sec. 291. Section 68-1732, Reissue Revised Statutes of Nebraska, is amended to read:

68-1732 It is the intent of the Legislature that the ~~Department of Health and Human Services Regulation and Licensure,~~ the Department of Health and Human Services, the State Department of Education, the Department of Labor, ~~the Department of Health and Human Services Finance and Support,~~ the Office of Probation Administration, the Department of Correctional Services, and the Department of Economic Development will have integrated programs and policies when serving a common customer. Organizational mergers and operating agreements shall be developed within state government which bring together the state's community-based child-serving and family-serving resources in the areas of health care services, social services, mental health services, developmental disabilities services, juvenile justice, and education. Such actions shall eliminate the need for the public to understand the differing roles, responsibilities, and services of the agencies enumerated in this section and their affiliates.

Sec. 292. Section 68-1802, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1802 For purposes of the ICF/MR Reimbursement Protection Act:

- (1) ~~Department~~ means the Department of Health and Human Services; ~~Finance and Support;~~
- (2) Intermediate care facility for the mentally retarded has the definition found in section 71-421;
- (3) Medical assistance program means the program established pursuant to the Medical Assistance Act; and
- (4) Net revenue means the revenue paid to an intermediate care facility for the mentally retarded for resident care, room, board, and services less contractual adjustments and does not include revenue from sources other than operations, including, but not limited to, interest and guest meals.

Sec. 293. Section 68-1807, Revised Statutes Cumulative Supplement, 2006, is amended to read:

68-1807 (1) An intermediate care facility for the mentally retarded that fails to pay the tax required by section 68-1803 shall be subject to a penalty of five hundred dollars per day of delinquency. The total amount of the penalty assessed under this section shall not exceed five percent of the tax due from the intermediate care facility for the mentally retarded for the year for which the tax is assessed.

(2) The department shall collect the penalties and remit them to the State Treasurer for distribution in accordance with Article VII, section 5, of

~~the Constitution of Nebraska. Penalties shall be collected by the department and remitted to the State Treasurer for credit to the permanent school fund.~~

Sec. 294. Section 69-302, Reissue Revised Statutes of Nebraska, is amended to read:

69-302 For purposes of the Mail Order Contact Lens Act:

(1) Contact lens prescription means a written order bearing the original signature of an optometrist or physician or an oral or electromagnetic order issued by an optometrist or physician that authorizes the dispensing of contact lenses to a patient and meets the requirements of section 69-303;

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

(3) Mail-order ophthalmic provider means an entity that ships, mails, or in any manner delivers dispensed contact lenses to Nebraska residents;

(4) Optometrist means a person licensed to practice optometry pursuant to sections 71-1,133 to 71-1,136.09; and

(5) Physician means a person licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14.

Sec. 295. Section 69-305, Reissue Revised Statutes of Nebraska, is amended to read:

69-305 The mail-order ophthalmic provider shall pay a fee equivalent to the annual fee for an initial or renewal permit to operate a pharmacy in Nebraska as established in and at the times provided for in the Health Care Facility Licensure Act. Such fees shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund.

Sec. 296. Section 71-101, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-101 Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1,343 to 71-1,361, and 71-1301 to 71-1354 and the Physical Therapy Practice Act shall be known and may be cited as the Uniform Licensing Law.

For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Board or professional board means one of the boards appointed by the State Board of Health pursuant to sections 71-111 and 71-112;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, means a person licensed under the Uniform Licensing Law;

(3) Profession or health profession means any of the several groups named in section 71-102;

(4) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(5) Whenever a particular gender is used, it is construed to include both the masculine and the feminine, and the singular number includes the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure means permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, means a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health professional tasks. When appropriate, certificate means a document issued by the department which designates particular credentials for an individual;

(8) Lapse means the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so;

(9) Credentialing means the totality of the process associated with obtaining state approval to provide health care services or human services or changing aspects of a current approval. Credentialing grants permission to use a protected title that signifies that a person is qualified to provide the services of a certain profession. Credential includes a license, certificate, or registration; and

(10) Dependence means a compulsive or chronic need for or an active addiction to alcohol or any controlled substance or narcotic drug; and -

(11) Director means the Director of Public Health of the Division of Public Health.

Sec. 297. Section 71-102, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-102 (1) No person shall engage in the practice of medicine and surgery, athletic training, respiratory care, osteopathic medicine, chiropractic, dentistry, dental hygiene, pharmacy, podiatry, optometry, massage therapy, physical therapy, audiology, speech-language pathology, embalming, funeral directing, psychology, veterinary medicine and surgery, medical nutrition therapy, acupuncture, mental health practice, or alcohol and drug counseling unless such person has obtained a license from the ~~Department of Health and Human Services Regulation and Licensure~~ department for that purpose.

(2) No person shall hold himself or herself out as a certified social worker or certified master social worker unless such person has obtained a certificate from the department for that purpose.

(3) No person shall hold himself or herself out as a certified professional counselor unless such person has obtained a certificate from the department for such purpose.

(4) No person shall hold himself or herself out as a certified marriage and family therapist unless such person has obtained a certificate from the department for such purpose.

Sec. 298. Section 71-104, Reissue Revised Statutes of Nebraska, is amended to read:

71-104 The ~~Department of Health and Human Services Regulation and Licensure~~ department may refuse to grant a license, certificate, or registration to practice a profession to any person, otherwise qualified, upon any of the grounds for which a license, certificate, or registration may be revoked under the provisions of the Uniform Licensing Law.

Sec. 299. Section 71-105, Reissue Revised Statutes of Nebraska, is amended to read:

71-105 Every credential to practice a profession shall be in the form of a document under the name and seal of the department and signed by the ~~Director of Regulation and Licensure~~ director and the Governor. It shall also be countersigned by the members of the appropriate professional board, except that all credentials granted without examination may be issued by the department under its name and seal and signed by its director and the Governor. A copy of all credentials shall be retained in the department and given the same number as has been assigned to the credentialed person in the other records of the department.

Sec. 300. Section 71-121.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-121.01 The department shall be responsible for the general administration of the activities of each of the boards as defined in the Advanced Practice Registered Nurse Licensure Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, and sections 71-4701 to 71-4719 and 71-6053 to 71-6068 and the boards covered by the scope of the Uniform Licensing Law and named in section 71-102. The cost of operation and administration of the boards shall be paid from fees, gifts, grants, and other money credited to the Professional and Occupational Credentialing Cash Fund. The ~~Director of Regulation and Licensure~~ director shall determine the proportionate share of this cost to be paid from the fees of the respective boards, except that no fees shall be paid for such purpose from the fund without the prior approval of the boards concerned. The director's determinations shall become final when approved by the respective boards ~~and the department~~ and shall be valid for one fiscal year only.

Sec. 301. Section 71-139, Reissue Revised Statutes of Nebraska, is amended to read:

71-139 (1) The department may, without examination, except when a practical examination is required, issue a license to practice any profession, except pharmacy, podiatry, dentistry, medicine and surgery, optometry, osteopathic medicine and surgery or as an osteopathic physician, and audiology and speech-language pathology, to a person who has been in the active practice of such profession in another state or territory of the United States or the District of Columbia upon (a) certification by the proper licensing authority of the state, territory, or District of Columbia that (i) the applicant is duly licensed, (ii) his or her license has never been suspended or revoked, and (iii) so far as the records of such authority are concerned, the applicant is entitled to its endorsement and (b) proof of the following:

(i) That the state, territory, or District of Columbia has and maintains standards regulating such profession equal to those maintained in



this state;

(ii) That his or her license was based upon a written examination and the grades given at such examination;

(iii) The date of his or her license;

(iv) That he or she has been actively engaged in the practice of such profession under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity;

(v) That the applicant is of good moral character and standing in his or her profession as evidenced by completing under oath an application from the department containing such a statement; and

(vi) That the applicant has been in the active and continuous practice of such profession under license by examination in such state, territory, or District of Columbia for at least one year.

(2) An applicant for reciprocal registration coming from any state may be licensed by reciprocity if his or her individual qualifications meet the Nebraska legal requirements.

(3) The department may issue certificates or registrations on a reciprocal basis to persons who are required to be certified or registered pursuant to the Uniform Licensing Law. The department may adopt and promulgate rules and regulations for reciprocity pursuant to this section.

(4) Persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Examiners in Osteopathy since January 1, 1963, and prior to May 23, 1981, and after May 23, 1981, persons who graduate from schools or colleges of osteopathic medicine accredited by the department on recommendation of the Board of Medicine and Surgery who meet the requirements of this section and who have passed a written examination which is equivalent to that required in section 71-1,104 as determined by the Board of Medicine and Surgery and who meet the requirements of section 71-1,137 for the practice of osteopathic medicine and surgery as evidenced by a certificate of the Board of Medicine and Surgery may be granted a license to practice osteopathic medicine and surgery as defined in section 71-1,137 if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for license by reciprocity. Graduates of an accredited school or college of osteopathic medicine since January 1, 1963, who meet the requirements of this section and who meet the applicable requirements of section 71-1,139.01 as certified by the Board of Medicine and Surgery may be granted a special license as doctor of osteopathic medicine and surgery.

(5) The department may approve without examination any person who has been duly licensed to practice optometry in another state or territory of the United States or the District of Columbia under conditions and circumstances which the Board of Optometry shall find to be comparable to the requirements of the State of Nebraska for obtaining a license to practice optometry if such person has been actively engaged in the practice under such license for at least one of the three years immediately preceding the application for license by reciprocity. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training. The applicant shall provide certification from the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession that he or she is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned he or she is entitled to its endorsement. If the applicant is found to meet the requirements provided in this section and is qualified to be licensed to practice the profession of optometry in the State of Nebraska, the board shall issue a license to practice optometry in the State of Nebraska to such applicant.

(6) The Board of Dentistry may approve any person who has been duly licensed to practice dentistry or dental hygiene in another state or territory of the United States or the District of Columbia under conditions and circumstances which the board finds to be comparable to the requirements of the State of Nebraska for obtaining a license to practice dentistry or dental hygiene if such person has been actively engaged in the practice under such license or in an accepted residency or graduate training program for at least three years, one of which shall be within the three years immediately preceding the application for license by reciprocity. The applicant shall produce evidence satisfactory to the board that he or she has had the required secondary and professional education and training and is possessed of good character and morals as required by the laws of the State of Nebraska. The

applicant shall provide certification from the proper licensing authority of the state, territory, or District of Columbia where he or she is licensed to practice such profession that he or she is duly licensed, that his or her license has not been suspended or revoked, and that so far as the records of such authority are concerned he or she is entitled to its endorsement. The applicant shall submit evidence of completion during the twelve-month period preceding the application of continuing competency requirements comparable to the requirements of this state. The board may administer an oral examination to all applicants for licensure by reciprocity to assess their knowledge of basic clinical aspects of dentistry or dental hygiene. If the applicant is found by the board to meet the requirements provided in this section, the board shall certify such fact to the department, and the department upon receipt of such certification shall issue a license to practice dentistry or dental hygiene in the State of Nebraska to such applicant. If the board finds that the applicant does not satisfy the requirements of this section, the board shall certify its findings to the department. The ~~Director of Regulation and Licensure~~ director shall review the findings, and if he or she agrees with the findings, the director shall deny the application.

Sec. 302. Section 71-141, Reissue Revised Statutes of Nebraska, is amended to read:

71-141 In order that the department may determine the standards established by law and by rule in the other states, the ~~director, Director of Regulation and Licensure,~~ or some other person authorized by the director, shall gather information from other states bearing upon this point. The applicant shall, upon the request of the department, be responsible for securing information from the proper authority of the place from which he or she comes, of the standards maintained there, and the laws and rules relating thereto. In determining these standards, the department shall submit to the appropriate professional board any question that requires the exercise of expert knowledge.

Sec. 303. Section 71-142, Reissue Revised Statutes of Nebraska, is amended to read:

71-142 Where the licensing authority in any other state shall refuse to accept applicants from Nebraska who are qualified to be admitted under the laws of that state, and have been properly certified by the ~~Department of Health and Human Services Regulation and Licensure~~ department of this state, then the department may decline to admit without examination licensees from that state.

Sec. 304. Section 71-150, Reissue Revised Statutes of Nebraska, is amended to read:

71-150 (1) The ~~Director of Regulation and Licensure~~ director shall have jurisdiction of proceedings (a) to deny the issuance of a license, certificate, or registration, (b) to refuse renewal of a license, certificate, or registration, and (c) to discipline a licensee, certificate holder, or registrant.

(2) To deny or refuse renewal of a license, certificate, or registration, the department shall send the applicant, licensee, certificate holder, or registrant, by registered or certified mail, notice setting forth the action taken and the reasons for the determination. The denial or refusal to renew shall become final thirty days after mailing the notice unless the applicant, licensee, certificate holder, or registrant, within such thirty-day period, gives written notice of his or her desire for a hearing. The hearing shall be conducted in accordance with the Administrative Procedure Act.

(3) In order for the director to discipline a licensee, certificate holder, or registrant, a petition shall be filed by the Attorney General in all cases. The petition shall be filed in the office of the director. The department may withhold a petition for discipline or a final decision from public access for a period of five days from the date of filing the petition or the date the decision is entered or until service is made, whichever is earliest.

Sec. 305. Section 71-151, Reissue Revised Statutes of Nebraska, is amended to read:

71-151 The Attorney General shall comply with such directions of the ~~Department of Health and Human Services Regulation and Licensure or of the Director of Regulation and Licensure~~ director and prosecute such action on behalf of the state, but the county attorney of any county where a licensee, certificate holder, or registrant has practiced, at the request of the Attorney General or of the department, shall appear and prosecute such action.

Sec. 306. Section 71-153, Reissue Revised Statutes of Nebraska, is amended to read:

71-153 Upon the presentation of the petition to the ~~Director of~~

~~Regulation and Licensure~~, director, he or she shall make an order fixing the time and place for the hearing, which shall not be less than thirty nor more than sixty days thereafter.

Sec. 307. Section 71-155, Reissue Revised Statutes of Nebraska, is amended to read:

71-155 (1) The proceeding under section 71-150 shall be summary in its nature and triable as an equity action and shall be heard by the ~~Director of Regulation and Licensure~~ director or by a hearing officer designated by the director under rules and regulations of the department. Affidavits may be received in evidence in the discretion of the director or hearing officer. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing held under this section, the director shall, if the petition is brought with respect to subdivision (15) of section 71-148, make findings as to whether the licensee's conduct was necessary to save the life of a mother whose life was endangered by a physical disorder, physical illness, or physical injury, including a life-endangering physical condition caused by or arising from the pregnancy itself, and shall have the authority through entry of an order to exercise in his or her discretion any or all of the following powers, irrespective of the petition:

(a) Issue a censure against the credentialed person;

(b) Place the credentialed person on probation;

(c) Place a limitation or limitations on the credential and upon the right of the credentialed person to practice the profession to such extent, scope, or type of practice, for such time, and under such conditions as are found necessary and proper;

(d) Impose a civil penalty not to exceed twenty thousand dollars.

The amount of the penalty shall be based on the severity of the violation;

(e) Enter an order of suspension of the credential;

(f) Enter an order of revocation of the credential; and

(g) Dismiss the action.

(2) If the director determines that guilt has been established, the director may, at his or her discretion, consult with the professional board for the profession involved concerning sanctions to be imposed or terms and conditions of the sanctions. When the director consults with a professional board, the credentialed person shall be provided with a copy of the director's request, the recommendation of the board, and an opportunity to respond in such manner as the director determines.

(3) The credentialed person shall not engage in the practice of a profession after a credential to practice such profession is revoked or during the time for which it is suspended. If a credential is suspended, the suspension shall be for a definite period of time to be set by the director. The director may provide that the credential shall be automatically reinstated upon expiration of such period, reinstated if the terms and conditions as set by the director are satisfied, or reinstated subject to probation or limitations or conditions upon the practice of the credentialed person. If such credential is revoked, such revocation shall be for all times, except that at any time after the expiration of two years, application may be made for reinstatement pursuant to section 71-161.04.

Sec. 308. Section 71-155.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-155.01 If a chief medical officer is appointed pursuant to section ~~81-3201~~, 6 of this act, he or she shall perform the duties of the ~~Director of Regulation and Licensure~~ director for decisions in contested cases under sections 71-150, 71-153 to 71-155, 71-156, 71-161.02, 71-161.03, 71-161.07, 71-161.11 to 71-161.15, 71-161.17, 71-161.18, 71-161.20, 71-1,104, 71-1,142, 71-1,147.31, 71-1,147.44, and 71-1,147.45.

Sec. 309. Section 71-156, Reissue Revised Statutes of Nebraska, is amended to read:

71-156 In case the licensee, certificate holder, or registrant fails to appear, either in person or by counsel at the time and place designated in the notice required by section 71-154, the ~~Director of Regulation and Licensure~~ director after receiving satisfactory evidence of the truth of the charges shall order the license, certificate, or registration revoked or suspended or shall ~~order~~ take any or all of the other appropriate disciplinary measures authorized by section 71-155 ~~to be taken~~ against the licensee, certificate holder, or registrant.

Sec. 310. Section 71-161.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.02 The authority of the ~~Director of Regulation and Licensure~~

director to discipline a licensee, certificate holder, or registrant by placing him or her on probation pursuant to section 71-155 shall include, but not be limited to, the following:

(1) To require the licensee, certificate holder, or registrant to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral or both and may be a practical or clinical examination or both or any or all of such combinations of written, oral, practical, and clinical, at the option of the director;

(2) To require the licensee, certificate holder, or registrant to submit to a complete diagnostic examination by one or more physicians appointed by the director. If the director requires the licensee, certificate holder, or registrant to submit to such an examination, the director shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the licensee's, certificate holder's, or registrant's choice if the licensee, certificate holder, or registrant chooses to make available such a report or reports by his or her physician or physicians; and

(3) To limit the extent, scope, or type of practice of the licensee, certificate holder, or registrant.

Sec. 311. Section 71-161.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.03 (1) Any petition filed with the ~~Director of Regulation and Licensure~~ director pursuant to section 71-150 may, at any time prior to the entry of any order by the director, be disposed of by stipulation, agreed settlement, consent order, or similar method as agreed to between the parties. A proposed settlement shall be submitted and considered in camera and shall not be a public record unless accepted by the director. The director may review the input provided to the Attorney General by the board pursuant to subsection (2) of this section. If the settlement is acceptable to the director, he or she shall make it the sole basis of any order he or she enters in the matter, and it may be modified or added to by the director only upon the mutual consent of both of the parties thereto. If the settlement is not acceptable to the director, it shall not be admissible in any subsequent hearing and it shall not be considered in any manner as an admission.

(2) The Attorney General shall not enter into any agreed settlement or dismiss any petition without first having given notice of the proposed action and an opportunity to the appropriate professional board to provide input into the terms of the settlement or on dismissal. The board shall have fifteen days from the date of the Attorney General's request to respond, but the recommendation of the board, if any, shall not be binding on the Attorney General. Meetings of the board for such purpose shall be in closed session, and any recommendation by the board to the Attorney General shall not be a public record until the pending action is complete, except that if the director reviews the input provided to the Attorney General by the board as provided in subsection (1) of this section, the licensee, ~~or~~ certificate holder, or registrant shall also be provided a copy of the input and opportunity to respond in such manner as the director determines.

Sec. 312. Section 71-161.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.06 A petition for reinstatement of a license, certificate, or registration shall be considered at the next meeting of the board that is held not earlier than thirty days after the petition was filed. No public hearing need be held on the petition if the board recommends reinstatement of the license, certificate, or registration. Opportunity for a formal public hearing on the petition shall be granted by the board, if formally requested by the petitioner, prior to any recommendation by the board against reinstatement. Any petition for reinstatement accompanied by the requisite information and necessary documents shall be conclusively acted upon by the board within one hundred eighty days after the filing of the properly prepared petition and necessary accompanying documents with the board. If the petitioner formally requests opportunity for a formal public hearing thereon or if the board otherwise holds such a hearing, the petitioner shall be given at least thirty days' prior notice thereof by sending a copy of the notice of hearing by means of certified or registered mail directed to the petitioner at his or her last-known residence or business post office address as shown by the files or records of the ~~Department of Health and Human Services Regulation and Licensure~~ department or as otherwise known or by means of personal service by being personally served by any sheriff or constable or by any person especially appointed by the board. The hearing may be continued from time to time as the board finds necessary.

Sec. 313. Section 71-161.07, Reissue Revised Statutes of Nebraska,

is amended to read:

71-161.07 (1) Each professional board shall make a recommendation to the ~~Director of Regulation and Licensure~~ director regarding reinstatement following disciplinary action within the board's profession. In determining whether reinstatement should be recommended, the board (a) may request the department to investigate the petitioner to determine if the petitioner has committed acts or offenses prohibited by sections 71-147 and 71-148, (b) may require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the board, the petitioner being free also to consult a physician or physicians of his or her own choice for a complete diagnostic examination and to make available a report or reports thereof to the board, (c) may require the petitioner to pass a written, oral, or practical examination or any combination of such examinations, and (d) may require additional education.

(2) The affirmative vote of a majority of the members of the board shall be necessary to recommend reinstatement of a credential with or without terms, conditions, or restrictions. The board may grant or deny, without a hearing or argument, any petition to recommend reinstatement filed pursuant to section 71-161.04 when the petitioner has been afforded a hearing or an opportunity for a hearing upon any such petition within a period of two years immediately preceding the filing of such petition.

(3) Denial by the board of the petition for recommendation of reinstatement of the license or certificate may be appealed. The appeal shall be in accordance with the Administrative Procedure Act.

Sec. 314. Section 71-161.12, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.12 In addition to the grounds for denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration as otherwise provided by law, a license, certificate, or registration to practice any profession or occupation regulated by the ~~Department of Health and Human Services Regulation and Licensure~~ department pursuant to Chapter 71 shall be denied, refused renewal, limited, suspended, or revoked automatically by the ~~Director of Regulation and Licensure~~ director when the applicant, licensee, certificate holder, or registrant is found to be not qualified to practice the particular profession or occupation for which he or she is applying, licensed, certified, or registered because of habitual intoxication or dependence, physical or mental illness, or physical or mental deterioration or disability.

Sec. 315. Section 71-161.13, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.13 When any complaint has been filed with the department by any person or any report has been made to the ~~Director of Regulation and Licensure~~ director by the Licensee Assistance Program under section 71-172.01 alleging that an applicant for a credential or a person credentialed to practice any profession or occupation in the state regulated by the department pursuant to Chapter 71 is suffering from habitual intoxication or dependence, physical or mental illness, or physical or mental deterioration or disability, the ~~Director of Regulation and Licensure~~ director shall investigate such complaint to determine if any reasonable cause exists to question the qualification of the applicant or credentialed person to practice or to continue to practice such profession or occupation. If the director on the basis of such investigation or, in the absence of such complaint, upon the basis of his or her own independent knowledge finds that reasonable cause exists to question the qualification of the applicant or credentialed person to practice such profession or occupation because of habitual intoxication or dependence, physical or mental illness, or physical or mental deterioration or disability, the director shall report such finding and evidence supporting it to the appropriate professional board and if such board agrees that reasonable cause exists to question the qualification of such applicant or credentialed person, the board shall appoint a committee of three qualified physicians to examine the applicant or credentialed person and to report their findings and conclusions to the board. The board shall then consider the findings and the conclusions of the physicians and any other evidence or material which may be submitted to that board by the applicant or credentialed person, by the director, or by any other person and shall then determine if the applicant or credentialed person is qualified to practice or to continue to practice such profession or occupation in the State of Nebraska. If such board finds the applicant or credentialed person to be not qualified to practice or to continue to practice such profession or occupation because of habitual intoxication or dependence, physical or mental illness, or physical or mental deterioration or disability, the board shall so certify that fact to the director with a recommendation for the denial, refusal of renewal,

limitation, suspension, or revocation of such credential. The director shall thereupon deny, refuse renewal of, suspend, or revoke the credential or limit the credential of the credentialed person to practice such profession or occupation in the state in such manner and to such extent as the director determines to be necessary for the protection of the public.

Sec. 316. Section 71-161.14, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.14 The denial, refusal of renewal, limitation, suspension, or revocation of a credential as provided in section 71-161.13 shall continue in effect until reversed on appeal or until the cause of such denial, refusal of renewal, limitation, suspension, or revocation no longer exists and the appropriate professional board finds, upon competent medical evaluation by a qualified physician or physicians, that the applicant, former credentialed person, or credentialed person is qualified to engage in the practice of the profession or occupation for which he or she made application, for which he or she was formerly credentialed, or for which he or she was credentialed subject to limitation and certifies that fact to the ~~Director of Regulation and Licensure~~ director. Upon such finding the director, notwithstanding the provision of any other statute, shall issue, return, or reinstate such credential or remove any limitation on such credential if the person is otherwise qualified as determined by the appropriate professional board to practice or to continue in the practice of the profession or occupation.

Sec. 317. Section 71-161.16, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.16 Any applicant, licensee, certificate holder, or registrant shall have the right to appeal from an order denying, refusing renewal of, limiting, suspending, or revoking a license, certificate, or registration to practice a profession or occupation regulated by the ~~Department of Health and Human Services Regulation and Licensure~~ department pursuant to Chapter 71 because of habitual intoxication or dependence, physical or mental illness, or physical or mental deterioration or disability. Such appeal shall be in accordance with the Administrative Procedure Act.

Sec. 318. Section 71-161.17, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.17 (1) The license, certificate, or registration of any person to practice any profession or occupation licensed, certified, or registered by the ~~Department of Health and Human Services Regulation and Licensure~~ department pursuant to the provisions of Chapter 71 shall be suspended automatically if he or she is determined by legal process to be mentally ill.

(2) A certified copy of the document evidencing that such a licensee, certificate holder, or registrant has been determined by legal process to be mentally ill shall be transmitted to the ~~Director of Regulation and Licensure~~ director as soon as possible following such determination.

(3) A suspension under this section may be terminated by the ~~Director of Regulation and Licensure~~ director when he or she receives competent evidence that such former practitioner is not or is no longer mentally ill and is otherwise satisfied, with due regard for the public interest, that such former practitioner's license, certificate, or registration to practice may be restored.

Sec. 319. Section 71-161.20, Reissue Revised Statutes of Nebraska, is amended to read:

71-161.20 (1) An applicant may apply to the ~~Director of Regulation and Licensure~~ director for reinstatement only with an affirmative recommendation of the appropriate professional board, and such application to the director may not be received or filed by the director unless accompanied by (a) the written recommendation of the board, including any finding of fact or order of the board, (b) the application submitted to the board, (c) the record of hearing if any, and (d) any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the board and the petitioner.

(2) The director shall then review the application and other documents and may affirm the recommendation of the board and grant reinstatement or may reverse or modify the recommendation if the board's recommendation is (a) in excess of statutory authority, (b) made upon unlawful procedure, (c) unsupported by competent, material, and substantial evidence in view of the entire record, or (d) arbitrary or capricious.

Sec. 320. Section 71-165, Reissue Revised Statutes of Nebraska, is amended to read:

71-165 Any person who shall file, or attempt to file, with the ~~Department of Health and Human Services Regulation and Licensure~~ department any false or forged diploma or certificate, or affidavit of identification or

qualification, shall be deemed guilty of forgery, and upon conviction thereof shall be punished according to the penalties imposed in the statutes relating to that subject.

Sec. 321. Section 71-169, Reissue Revised Statutes of Nebraska, is amended to read:

71-169 The ~~Department of Health and Human Services Regulation and Licensure department~~ shall promulgate necessary rules and regulations and forms for carrying out the provisions of the Uniform Licensing Law. It may also adopt rules and regulations supplementing any of the provisions herein contained but not inconsistent therewith.

Sec. 322. Section 71-172.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-172.01 (1) The ~~Department of Health and Human Services Regulation and Licensure~~ may contract with the Department of Health and Human Services ~~to department~~ may contract to provide a Licensee Assistance Program to credential holders regulated by the Department of Health and Human Services Regulation and Licensure ~~department~~. The program shall be limited to providing education, referral assistance, and monitoring of compliance with treatment of habitual intoxication or dependence and shall be limited to voluntary participation by credential holders.

(2)(a) Participation in the program shall be confidential, except that if any evaluation by the program determines that the intoxication or dependence may be of a nature which constitutes a danger to the public health and safety by the person's continued practice or if the person fails to comply with any term or condition of a treatment plan, the program shall report the same to the ~~Director of Regulation and Licensure~~ director.

(b) Participation in the program shall not preclude the investigation of alleged statutory violations which could result in disciplinary action against the person's credential or criminal action against the person. Any report from any person or from the program to the ~~Department of Health and Human Services Regulation and Licensure department~~ indicating that a credential holder is suffering from habitual intoxication or dependence shall be treated as a complaint against such credential and shall subject such credential holder to discipline under sections 71-150 to 71-155.

(3) No person who makes a report of intoxication or dependence to the program or from the program to the department shall be liable in damages to any person for slander, libel, defamation of character, breach of any privileged communication, or other criminal or civil action of any nature, whether direct or derivative, for making such report or providing information to the program or department in accordance with this section.

(4) Any person who contacts the department for information on or assistance in obtaining referral or treatment of himself or herself or any other person credentialed by the department for habitual intoxication or dependence shall be referred to the program. Such inquiries shall not be used by the department as the basis for investigation for disciplinary action, except that such limitation shall not apply to complaints or any other reports or inquiries made to the department concerning persons who may be suffering from habitual intoxication or dependence or when a complaint has been filed or an investigation or disciplinary or other administrative proceeding is in process.

Sec. 323. Section 71-172.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-172.02 The ~~Department of Health and Human Services Regulation and Licensure department~~ shall charge a fee of one dollar per year, in addition to any other fee, for each credential. Such fee shall be collected at the time of issuance or renewal and shall be remitted to the State Treasurer for credit to the Licensee Assistance Cash Fund, which fund is hereby created. Money in the fund shall be used to carry out section 71-172.01. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 324. Section 71-181, Reissue Revised Statutes of Nebraska, is amended to read:

71-181 The ~~Department of Health and Human Services Regulation and Licensure department~~ may in its discretion dispense with the examination in case of a chiropractor duly authorized to practice chiropractic in any other state, territory, or the District of Columbia, maintaining standards established by law or by duly authorized rules, equal to those of Nebraska, and who presents a certificate or license based on written examination issued by the proper authority of such other state, territory, or the District of Columbia.

Sec. 325. Section 71-188, Reissue Revised Statutes of Nebraska, is

amended to read:

71-188 When a person licensed to practice dentistry in this state changes his or her place of residence, he or she shall forthwith notify the ~~Department of Health and Human Services Regulation and Licensure~~ department of such change, which shall be noted in the records of the department.

Sec. 326. Section 71-193.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-193.01 There is hereby established the Office of Oral Health and Dentistry in the ~~Department of Health and Human Services Regulation and Licensure-~~ department. The head of such office shall be known as the Dental Health Director and shall be appointed by the department. The Dental Health Director shall give full time to his or her duties.

Sec. 327. Section 71-193.13, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.13 Any licensed dentist, public institution, or school may employ dental assistants, in addition to licensed dental hygienists. Such dental assistants, under the supervision of a licensed dentist, may perform such duties as are prescribed in accordance with rules and regulations adopted and promulgated by the ~~Department of Health and Human Services Regulation and Licensure-~~ department.

Sec. 328. Section 71-193.15, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.15 A licensed dental hygienist shall perform the traditional dental hygiene functions set forth in section 71-193.17 only when authorized to do so by a licensed dentist who shall be responsible for the total oral health care of the patient. The ~~Department of Health and Human Services Regulation and Licensure~~ department in the conduct of public health-related services may authorize a licensed dental hygienist to conduct preliminary charting and screening examinations, provide oral health education for patients including the teaching of appropriate plaque control techniques, and perform or provide all of the duties that any dental assistant is authorized to perform.

Sec. 329. Section 71-193.18, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.18 (1) A licensed dental hygienist may monitor nitrous oxide analgesia under the indirect supervision of a licensed dentist.

(2) A licensed dental hygienist may be approved by the department, upon the recommendation of the Board of Dentistry, to administer local anesthesia under the indirect supervision of a licensed dentist. The department may, upon the recommendation of the board, prescribe by rule and regulation: The necessary education and preparation, which shall include, but not be limited to, instruction in the areas of head and neck anatomy, osteology, physiology, pharmacology, medical emergencies, and clinical techniques; the necessary clinical experience; and the necessary examination for purposes of determining the competence of licensed dental hygienists to administer local anesthesia.

Upon the recommendation of the board, the department may approve successful completion after July 1, 1994, of a course of instruction to determine competence to administer local anesthesia. The course of instruction must be at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Division of Public Health of the Department of Health and Human Services. ~~Regulation and Licensure-~~ The course of instruction must be taught by a faculty member or members of the institution presenting the course. The department may approve for purposes of this subsection a course of instruction if such course includes:

(a) At least twelve clock hours of classroom lecture, including instruction in (i) medical history evaluation procedures, (ii) anatomy of the head, neck, and oral cavity as it relates to administering local anesthetic agents, (iii) pharmacology of local anesthetic agents, vasoconstrictor, and preservatives, including physiologic actions, types of anesthetics, and maximum dose per weight, (iv) systemic conditions which influence selection and administration of anesthetic agents, (v) signs and symptoms of reactions to local anesthetic agents, including monitoring of vital signs, (vi) management of reactions to or complications associated with the administration of local anesthetic agents, (vii) selection and preparation of the armamentaria for administering various local anesthetic agents, and (viii) methods of administering local anesthetic agents;

(b) At least twelve clock hours of clinical instruction during which time at least three injections of each of the anterior, middle and posterior superior alveolar, naso and greater palatine, inferior alveolar, lingual, mental, long buccal, and infiltration injections are administered; and



(c) Procedures, which shall include an examination, for purposes of determining whether the hygienist has acquired the necessary knowledge and proficiency to administer local anesthetic agents.

Sec. 330. Section 71-193.19, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.19 ~~The Department of Health and Human Services Regulation and Licensure~~ department may, by rule and regulation, prescribe functions, procedures, and services in addition to those in section 71-193.17 which may be performed by a licensed dental hygienist under the supervision of a licensed dentist when such additional procedures are educational or related to the oral prophylaxis and intended to attain or maintain optimal oral health.

Sec. 331. Section 71-193.22, Reissue Revised Statutes of Nebraska, is amended to read:

71-193.22 As used in the Dental Anesthesia Act, unless the context otherwise requires:

(1) Analgesia shall mean the diminution or elimination of pain in the conscious patient;

(2) Board shall mean the Board of Dentistry;

(3) Department shall mean the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(4) General anesthesia shall mean a controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, and produced by a pharmacologic or nonpharmacologic method or a combination thereof;

(5) Inhalation analgesia shall mean the administration of nitrous oxide and oxygen to diminish or eliminate pain in a conscious patient;

(6) Parenteral shall mean administration other than through the digestive tract, including, but not limited to, intravenous administration; and

(7) Sedation shall mean a depressed level of consciousness in which the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command is retained and which is produced by a pharmacologic or nonpharmacologic method or a combination thereof.

Sec. 332. Section 71-1,104, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,104 (1) Each applicant for a license to practice medicine and surgery shall:

(a) (i) Present proof that he or she is a graduate of an accredited school or college of medicine, (ii) if a foreign medical graduate, provide a copy of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates that is currently effective and relates to such applicant or provide such credentials as are necessary to certify that such foreign medical graduate has successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service, or (iii) if a graduate of a foreign medical school who has successfully completed a program of American medical training designated as the Fifth Pathway and who additionally has successfully passed the Educational Commission on Foreign Medical Graduates examination but has not yet received the permanent certificate attesting to the same, provide such credentials as certify the same to the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(b) Present proof that he or she has served at least one year of graduate medical education approved by the Board of Medicine and Surgery or, if a foreign medical graduate, present proof that he or she has served at least three years of graduate medical education approved by the board;

(c) Pass a licensing examination designated by the board and the department covering appropriate medical subjects; and

(d) Present proof satisfactory to the board that he or she, within the three years immediately preceding the application for licensure, (i) has been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year, (ii) has had at least one year of graduate medical education as described in subdivision (1)(b) of this section, (iii) has completed continuing education in medicine and surgery approved by the board, (iv) has completed a refresher course in medicine and surgery approved by the board, or (v) has completed the special purposes examination approved by the board.

(2) The department, upon the recommendation of the board, may waive any requirement for more than one year of approved graduate medical education, as set forth in subdivision (1)(b) of this section, if the applicant has

served at least one year of graduate medical education approved by such board and if the following conditions are met:

(a) The applicant meets all other qualifications for a license to practice medicine and surgery;

(b) The applicant submits satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of this state; and

(c) The applicant submits proof that he or she will enter into the practice of medicine in a health profession shortage area designated as such by the Nebraska Rural Health Advisory Commission immediately upon obtaining a license to practice medicine and surgery based upon a waiver of the requirement for more than one year of graduate medical education.

(3) A license issued on the basis of such a waiver shall be subject to the limitation that the licensee continue in practice in the health profession shortage area and such other limitations, if any, deemed appropriate under the circumstances by the ~~Director of Regulation and Licensure~~, director, upon recommendation of the board, which may include, but shall not be limited to, supervision by a medical practitioner, training, education, and scope of practice. After two years of practice under a limited license issued on the basis of a waiver of the requirement of more than one year of graduate medical education, a licensee may apply to the department for removal of the limitations. The director, upon the recommendation of the board, may grant or deny such application or may continue the license with limitations.

(4) In addition to any other grounds for disciplinary action against the license contained in the Uniform Licensing Law, the department may take disciplinary action against a license granted on the basis of a waiver of the requirement of more than one year of graduate medical education for violation of the limitations on the license. The department, upon the recommendation of the board, shall adopt and promulgate rules and regulations for the purpose of implementing and administering this section.

Sec. 333. Section 71-1,104.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,104.01 (1) Except as provided in section 71-519 and except for newborn screening tests ordered by physicians to comply with the law of the state in which the infant was born, a physician or an individual to whom the physician has delegated authority to perform a selected act, task, or function shall not order a predictive genetic test without first obtaining the written informed consent of the patient to be tested. Written informed consent consists of a signed writing executed by the patient or the representative of a patient lacking decisional capacity that confirms that the physician or individual acting under the delegated authority of the physician has explained, and the patient or his or her representative understands:

(a) The nature and purpose of the predictive genetic test;

(b) The effectiveness and limitations of the predictive genetic test;

(c) The implications of taking the predictive genetic test, including the medical risks and benefits;

(d) The future uses of the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test;

(e) The meaning of the predictive genetic test results and the procedure for providing notice of the results to the patient; and

(f) Who will have access to the sample taken to conduct the predictive genetic test and the genetic information obtained from the predictive genetic test, and the patient's right to confidential treatment of the sample and the genetic information.

(2) The ~~Department of Health and Human Services Regulation and Licensure~~ department shall develop and distribute a model informed consent form for purposes of this section. The department shall include in the model form all of the information required under subsection (1) of this section. The department shall distribute the model form and all revisions to the form to physicians and other individuals subject to this section upon request and at no charge. The department shall review the model form at least annually for five years after the first model form is distributed and shall revise the model form if necessary to make the form reflect the latest developments in medical genetics. The department may also develop and distribute a pamphlet that provides further explanation of the information included in the model form.

(3) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of

this section, the physician or individual acting under the delegated authority of the physician shall give the patient a copy of the signed informed consent form and shall include the original signed informed consent form in the patient's medical record.

(4) If a patient or his or her representative signs a copy of the model informed consent form developed and distributed under subsection (2) of this section, the patient is barred from subsequently bringing a civil action for damages against the physician, or an individual to whom the physician delegated authority to perform a selected act, task, or function, who ordered the predictive genetic test, based upon failure to obtain informed consent for the predictive genetic test.

(5) A physician's duty to inform a patient under this section does not require disclosure of information beyond what a physician reasonably well-qualified to order and interpret the predictive genetic test would know. A person acting under the delegated authority of a physician shall understand and be qualified to provide the information required by subsection (1) of this section.

(6) For purposes of this section:

(a) Genetic information means information about a gene, gene product, or inherited characteristic derived from a genetic test;

(b) Genetic test means the analysis of human DNA, RNA, chromosomes, epigenetic status, and those tissues, proteins, and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purposes. Tests of tissues, proteins, and metabolites are included only when generally accepted in the scientific and medical communities as being specifically determinative of a heritable or somatic disease-related genetic condition. Genetic test does not include a routine analysis, including a chemical analysis, of body fluids or tissues unless conducted specifically to determine a heritable or somatic disease-related genetic condition. Genetic test does not include a physical examination or imaging study. Genetic test does not include a procedure performed as a component of biomedical research that is conducted pursuant to federal common rule under 21 C.F.R. parts 50 and 56 and 45 C.F.R. part 46, as such regulations existed on January 1, 2003; and

(c) Predictive genetic test means a genetic test for an otherwise undetectable genotype or karyotype relating to the risk for developing a genetically related disease or disability, the results of which can be used to substitute a patient's prior risk based on population data or family history with a risk based on genotype or karyotype. Predictive genetic test does not include diagnostic testing conducted on a person exhibiting clinical signs or symptoms of a possible genetic condition. Predictive genetic testing does not include prenatal genetic diagnosis, unless the prenatal testing is conducted for an adult-onset condition not expected to cause clinical signs or symptoms before the age of majority.

Sec. 334. Section 71-1,107, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107 The Department of Health and Human Services Regulation and Licensure department may accept in lieu of the examination provided in section 71-1,104 a certificate of examination issued by the National Board of Medical Examiners of the United States of America, but every applicant for a license upon the basis of such certificate shall be required to pay the fees prescribed for licenses issued in medicine and surgery without examination based upon a license by examination held in another state, territory, or the District of Columbia.

Sec. 335. Section 71-1,107.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.06 The duration of any permit issued pursuant to sections 71-1,107.01 to 71-1,107.14 shall be determined by the ~~Department of Health and Human Services Regulation and Licensure~~ department but in no case shall it be in excess of one year. The permit may be renewed from time to time at the discretion of the ~~Department of Health and Human Services Regulation and Licensure~~ department but in no case shall it be renewed for more than five one-year periods. The department may issue to all qualified graduates of accredited colleges of medicine or accredited schools or colleges of osteopathic medicine, who are eligible for the examination provided in section 71-1,104, and who make application for such examination, a temporary educational permit, without charge. Such permit shall be issued only for the duration of the time between the date of the examination and the date of licensure granted as a result of such examination. Any person issued a temporary educational permit without charge shall meet all requirements provided for in sections 71-1,107.01 to ~~71-1,107.13,~~ 71-1,107.14, except the required fee, and such exemption is only for the period of time between the examination date and the licensing date and for only those individuals who

take the examination as provided in section 71-1,104.

Sec. 336. Section 71-1,107.07, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.07 Before granting any temporary educational permit, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall ascertain by evidence satisfactory to such board that an accredited hospital or school or college of medicine in the State of Nebraska has requested the issuance of a temporary educational permit for an applicant to serve as a graduate student in its approved program for the period involved and any application for the issuance of such permit shall be signed by the applicant requesting that such permit be issued to him or her and shall designate the specified approved graduate medical educational program with respect to which such permit shall apply.

Sec. 337. Section 71-1,107.08, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.08 Before a visiting faculty permit shall be issued, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall determine on the basis of evidence satisfactory to the department that an accredited school or college of medicine in the State of Nebraska has requested issuance of such visiting faculty permit for the individual involved to serve as a member of the faculty of such school or college of medicine and that the applicant for such permit has met the requirements of sections 71-1,107.01 to 71-1,107.14. Any application for issuing a visiting faculty permit shall be signed by the applicant to whom such permit is to be issued and shall designate the accredited school or college of medicine where such applicant proposes to serve as a member of the faculty and shall outline the faculty duties to be performed pursuant to the permit.

Sec. 338. Section 71-1,107.16, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,107.16 For purposes of sections 71-1,107.15 to 71-1,107.30, unless the context otherwise requires:

(1) Approved program means a program for the education of physician assistants which the board formally approves;

(2) Board means the Board of Medicine and Surgery;

(3) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure~~;

(4) Physician assistant means any person who graduates from a program approved by the Commission on Accreditation of Allied Health Education Programs or its predecessor or successor agency and the board, who satisfactorily completes a proficiency examination, and whom the board, with the concurrence of the department, approves to perform medical services under the supervision of a physician or group of physicians approved by the board to supervise such assistant;

(5) Supervision means the ready availability of the supervising physician for consultation and direction of the activities of the physician assistant. Contact with the supervising physician by telecommunication shall be sufficient to show ready availability if the board finds that such contact is sufficient to provide quality medical care. The level of supervision may vary by geographic location as provided in section 71-1,107.17;

(6) Trainee means any person who is currently enrolled in an approved program;

(7) Proficiency examination means the initial proficiency examination approved by the board for the licensure of physician assistants, including, but not limited to, the examination administered by the National Commission on Certification of Physician Assistants or other national organization established for such purpose that is recognized by the board;

(8) Supervising physician means a (a) board-approved physician who utilizes an approved physician assistant or (b) backup physician;

(9) Backup physician means a physician designated by the supervising physician to ensure supervision of the physician assistant in the supervising physician's absence. A backup physician shall be subject to the same requirements imposed upon the supervising physician when the backup physician is acting as a supervising physician; and

(10) Committee means the Physician Assistant Committee created in section 71-1,107.25.

Sec. 339. Section 71-1,132.05, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,132.05 For purposes of the Nurse Practice Act, unless the context otherwise requires:

(1) Executive director means the executive director of the Board of Nursing;

(2) Board means the Board of Nursing;

(3) License by endorsement means the granting of active status and the authority to practice to an individual who has been licensed in another jurisdiction;

(4) License by examination means the authority to practice is based on an assessment of minimum competency by such means as the board may determine;

(5) License, for purposes of discipline, includes the multistate licensure privilege to practice granted by the Nurse Licensure Compact. If the multistate licensure privilege is restricted due to disciplinary action by the home state, the department may, upon request by the individual, grant the authority to practice in this state;

(6) Licensed practitioner means a person lawfully authorized to prescribe medications or treatments;

(7) The practice of nursing means the performance for compensation or gratuitously of any act expressing judgment or skill based upon a systematized body of nursing knowledge. Such acts include the identification of and intervention in actual or potential health problems of individuals, families, or groups, which acts are directed toward maintaining health status, preventing illness, injury, or infirmity, improving health status, and providing care supportive to or restorative of life and well-being through nursing assessment and through the execution of nursing care and of diagnostic or therapeutic regimens prescribed by any person lawfully authorized to prescribe. Each nurse is directly accountable and responsible to the consumer for the quality of nursing care rendered. Licensed nurses may use the services of unlicensed individuals to provide assistance with personal care and activities of daily living;

(8) The practice of nursing by a registered nurse means assuming responsibility and accountability for nursing actions which include, but are not limited to:

(a) Assessing human responses to actual or potential health conditions;

(b) Establishing nursing diagnoses;

(c) Establishing goals and outcomes to meet identified health care needs;

(d) Establishing and maintaining a plan of care;

(e) Prescribing nursing interventions to implement the plan of care;

(f) Implementing the plan of care;

(g) Teaching health care practices;

(h) Delegating, directing, or assigning nursing interventions that may be performed by others and that do not conflict with the act;

(i) Maintaining safe and effective nursing care rendered directly or indirectly;

(j) Evaluating responses to interventions, including, but not limited to, performing physical and psychological assessments of patients under restraint and seclusion as required by federal law, if the registered nurse has been trained in the use of emergency safety intervention;

(k) Teaching theory and practice of nursing;

(l) Conducting, evaluating, and utilizing nursing research;

(m) Administering, managing, and supervising the practice of nursing; and

(n) Collaborating with other health professionals in the management of health care;

(9) The practice of nursing by a licensed practical nurse means the assumption of responsibilities and accountability for nursing practice in accordance with knowledge and skills acquired through an approved program of practical nursing. A licensed practical nurse may function at the direction of a licensed practitioner or a registered nurse. Such responsibilities and performances of acts must utilize procedures leading to predictable outcomes and must include, but not be limited to:

(a) Contributing to the assessment of the health status of individuals and groups;

(b) Participating in the development and modification of a plan of care;

(c) Implementing the appropriate aspects of the plan of care;

(d) Maintaining safe and effective nursing care rendered directly or indirectly;

(e) Participating in the evaluation of response to interventions; and

(f) Assigning and directing nursing interventions that may be performed by others and that do not conflict with the act;

(10) Department means the Division of Public Health of the Department of Health and Human Services; Regulation and Licensure;

(11) Director means the Director of Public Health of the Division of Public Health; Regulation and Licensure;

(12) Inactive status means the designation given to a licensee who requests this status and pays the fee. A licensee on inactive status is issued a card indicating inactive status but shall not practice;

(13) Lapsed status means the designation given to a licensee who requests this status. A licensee on lapsed status shall not practice;

(14) Expiration date means the date on which the license expires has passed. The licensee whose license has expired shall not practice;

(15) Suspended means the licensee's authority to practice has been temporarily removed as a result of disciplinary action;

(16) Revoked means the licensee's authority to practice has been removed as a result of disciplinary action. The licensee may apply for reinstatement of his or her license two years or more after the date of revocation;

(17) Reinstatement means the return to active status and the restoration of the authority to practice to a licensee who was previously licensed in this state;

(18) Verification means attesting to the current status of an individual's license;

(19) Certification means attesting to the current status of an individual's license, any disciplinary action taken, and the means by which the individual was licensed;

(20) Probation means that the individual's authority to practice is contingent on the licensee meeting specified conditions imposed as a result of disciplinary action;

(21) Limited license means that certain restrictions have been imposed on the individual's authority to practice as a result of disciplinary action;

(22) Assignment means appointing or designating another individual the responsibility for the performance of nursing interventions;

(23) Delegation means transferring to another individual the authority, responsibility, and accountability to perform nursing interventions; and

(24) Direction means managing, guiding, and supervising the nursing interventions performed by another individual.

Sec. 340. Section 71-1,132.53, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,132.53 The Department of Health and Human Services Regulation and Licensure department shall:

(1) Conduct hearings upon charges of suspension or revocation of a license;

(2) Have power to issue subpoenas and compel the attendance of witnesses and administer oaths to persons giving testimony at hearings;

(3) Cause the prosecution of all persons violating the Nurse Practice Act and have power to incur the necessary expense; and

(4) Establish fees for credentialing activities under the Nurse Practice Act as provided in section 71-162.

Sec. 341. Section 71-1,135.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,135.02 (1)(a) No optometrist licensed in this state, except an optometrist who has been certified by the department prior to April 30, 1987, or by another state with substantially equivalent requirements for certification as determined by the department upon recommendation of the Board of Optometry to use topical ocular pharmaceutical agents for diagnostic purposes prior to April 30, 1987, shall use topical ocular pharmaceutical agents for diagnostic purposes authorized under subdivision (2) of section 71-1,133 unless such person (i) submits to the board the required fee and evidence of satisfactory completion of a pharmacology course at an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Division of Public Health of the Department of Health and Human Services, Regulation and Licensure, (ii) passes an examination approved by the department, and (iii) has been certified by the department upon the recommendation of the board as qualified to use topical ocular pharmaceutical agents for diagnostic purposes.

(b) The department may approve for certification pursuant to subdivision (1)(a)(i) of this section a pharmacology course if such course includes:

(i) A study of ocular anesthetics, mydriatics, cycloplegics, ocular toxicity of pharmaceutical agents, ocular allergies of ocular agents, and pharmacologic effects of ocular drug substances;

(ii) The consideration of the mechanism of action of anesthetics, cycloplegics, and mydriatics in human beings and the uses of such substances in the diagnosis of occurring ocular disorders;

(iii) At least one hundred hours of classroom education, clinical training, and examination; and

(iv) The correlation of the utilization of pharmaceutical agents and optical instrumentation and procedures.

(c) The department may approve for certification pursuant to subdivision (1)(a)(ii) of this section an examination if such examination is:

(i) Based upon the competencies taught in a pharmacology course; and

(ii) Administered by an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education and approved by the Division of Public Health of the Department of Health and Human Services, Regulation and Licensure.

(2)(a) No optometrist licensed in this state on or after April 30, 1987, shall use topical ocular pharmaceutical agents for therapeutic purposes authorized under subdivision (3) of section 71-1,133 unless such person (i) submits to the board the required fee and evidence of satisfactory completion of a minimum of one hundred hours since January 1, 1984, of which forty hours shall be classroom education and sixty hours shall be supervised clinical training as it applies to optometry with particular emphasis on the examination, diagnosis, and treatment of the eye, ocular adnexa, and visual system offered by a school or college approved by the department, (ii) passes an examination approved by the department, (iii) has been certified by the department upon the recommendation of the board to use topical ocular pharmaceutical agents for therapeutic purposes, and (iv) has been certified by the department upon the recommendation of the board to use topical ocular pharmaceutical agents for diagnostic purposes.

(b) The department may approve for certification pursuant to subdivision (2)(a)(i) of this section a therapeutic course or courses of instruction, from an institution accredited by a regional or professional accrediting organization which is recognized by the United States Department of Education, that have been completed after January 1, 1984. Such course or courses shall include, but not be limited to:

(i) Review of general pharmacology and therapeutics;

(ii) Review of ocular therapeutic pharmacology;

(iii) Diagnosis and treatment of diseases of the eye, ocular adnexa, and visual system;

(iv) Diagnosis of corneal disease and trauma including corneal foreign bodies;

(v) Diagnosis and treatment of anterior segment eye diseases;

(vi) Clinical procedures related to the diagnosis and treatment of the eye, ocular adnexa, and visual system;

(vii) Ocular manifestations of systemic disease;

(viii) Review of systemic disease syndromes;

(ix) Ocular therapy including management of acute systemic emergencies; and

(x) Consultation criteria in ocular disease and trauma.

(3)(a) An optometrist who is licensed and certified to use pharmaceutical agents for therapeutic purposes on July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as determined by the board, prior to January 1, 2000, and shall complete such educational requirements prior to treating glaucoma. Failure to complete such education prior to January 1, 2000, shall result in the revocation of the licensee's certification to use pharmaceutical agents for therapeutic purposes.

(b) An optometrist who applies for licensure on or after July 15, 1998, who graduated from an accredited school of optometry prior to January 1, 1996, shall complete the educational requirements relative to the treatment of glaucoma, as determined by the board, prior to being issued a license to practice optometry.

(c) An optometrist who graduated from an accredited school of optometry after January 1, 1996, shall be deemed to have met the educational requirements for certification to use pharmaceutical agents for therapeutic purposes which includes the treatment and management of glaucoma.

Sec. 342. Section 71-1,136, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,136 No school of optometry shall be approved by the Division of Public Health of the Department of Health and Human Services Regulation and Licensure as an accredited school unless the school is accredited by a

regional or professional accrediting organization which is recognized by the United States Department of Education.

Sec. 343. Section 71-1,141, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,141 With respect to licenses issued pursuant to sections 71-1,139 and 71-1,139.01 and any renewals thereof, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall designate the extent of such practice as follows:

- (1) License to practice as an osteopathic physician; or
- (2) License to practice osteopathic medicine and surgery.

Every license issued under sections 71-1,139 and 71-1,139.01 shall confer upon the holder thereof the right to practice osteopathic medicine and surgery as taught in the schools or colleges of osteopathic medicine recognized by the American Osteopathic Association in the manner and to the extent provided by such license.

Sec. 344. Section 71-1,142, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,142 For purposes of sections 71-1,142 to 71-1,151 and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy means (a) the interpretation, evaluation, and implementation of a medical order, (b) the dispensing of drugs and devices, (c) drug product selection, (d) the administration of drugs or devices, (e) drug utilization review, (f) patient counseling, (g) the provision of pharmaceutical care, and (h) the responsibility for compounding and labeling of dispensed or repackaged drugs and devices, proper and safe storage of drugs and devices, and maintenance of proper records. The active practice of pharmacy means the performance of the functions set out in this subdivision by a pharmacist as his or her principal or ordinary occupation;

(2) Administer means to directly apply a drug or device by injection, inhalation, ingestion, or other means to the body of a patient or research subject;

(3) Administration means the act of (a) administering, (b) keeping a record of such activity, and (c) observing, monitoring, reporting, and otherwise taking appropriate action regarding desired effect, side effect, interaction, and contraindication associated with administering the drug or device;

(4) Board means the Board of Pharmacy;

(5) Caregiver means any person acting as an agent on behalf of a patient or any person aiding and assisting a patient;

(6) Chart order means an order for a drug or device issued by a practitioner for a patient who is in the hospital where the chart is stored or for a patient receiving detoxification treatment or maintenance treatment pursuant to section 28-412. Chart order does not include a prescription;

(7) Compounding means the preparation of components into a drug product (a) as the result of a practitioner's medical order or initiative occurring in the course of practice based upon the relationship between the practitioner, patient, and pharmacist or (b) for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale or dispensing. Compounding includes the preparation of drugs or devices in anticipation of receiving medical orders based upon routine, regularly observed prescribing patterns;

(8) Delegated dispensing means the practice of pharmacy by which one or more pharmacists have jointly agreed, on a voluntary basis, to work in conjunction with one or more persons pursuant to sections 71-1,147.42 to 71-1,147.64 under a protocol which provides that such person may perform certain dispensing functions authorized by the pharmacist or pharmacists under certain specified conditions and limitations;

(9) Deliver or delivery means to actually, constructively, or attempt to transfer a drug or device from one person to another, whether or not for consideration;

(10) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(11) Device means 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 practitioner and dispensed by a pharmacist or other person authorized by law to do so;

(12) Dialysis drug or device distributor means 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, pursuant to a prescription;

(13) Dialysis drug or device distributor worker means a person



working for a dialysis drug or device distributor with a delegated dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task or tasks of assembling, labeling, or delivering drugs or devices pursuant to a prescription;

(14) Dispense or dispensing means interpreting, evaluating, and implementing a medical order, including preparing and delivering a drug or device to a patient or caregiver in a suitable container appropriately labeled for subsequent administration to, or use by, a patient. Dispensing includes (a) dispensing incident to practice, (b) dispensing pursuant to a delegated dispensing permit, (c) dispensing pursuant to a medical order, and (d) any transfer of a prescription drug or device to a patient or caregiver other than by administering;

(15) Distribute means to deliver a drug or device, other than by administering or dispensing;

(16) Facility means a health care facility as defined in section 71-413;

(17) Hospital has the same meaning as in section 71-419;

(18) Person means an individual, corporation, partnership, limited liability company, association, or other legal entity;

(19) Labeling means 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;

(20) Medical order means a prescription, a chart order, or an order for pharmaceutical care issued by a practitioner;

(21) Pharmaceutical care means the provision of drug therapy for the purpose of achieving therapeutic outcomes that improve a patient's quality of life. Such outcomes 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 includes 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;

(22) Pharmacist means any person who is licensed by the State of Nebraska to practice pharmacy;

(23) Pharmacy has the same meaning as in section 71-425;

(24) Drugs, medicines, and medicinal substances means (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 or devices as defined in subdivision (31) of this section;

(25) Patient counseling means the verbal communication by a pharmacist, pharmacist intern, or practitioner, 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 prescription drugs and devices and also includes the duties set out in section 71-1,147.35;

(26) Pharmacist in charge means a pharmacist who is designated on a pharmacy license or designated by a hospital as being responsible for the practice of pharmacy in the pharmacy for which a pharmacy license is issued and who works 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;

(27) Pharmacist intern means a person who meets the requirements of section 71-1,144;

(28) Pharmacy technician means an individual at least eighteen years of age who is a high school graduate or officially recognized by the State Department of Education as possessing the equivalent degree of education, who has never been convicted of any drug-related misdemeanor or felony, and who, under the written control procedures and guidelines of an employing pharmacy, may perform those functions which do not require professional judgment and which are subject to verification to assist a pharmacist in the practice of pharmacy;

(29) Practitioner means a certified registered nurse anesthetist, a

certified nurse midwife, a dentist, an optometrist, a nurse practitioner, a physician assistant, a physician, a podiatrist, or a veterinarian;

(30) Prescribe means to issue a medical order;

(31) Prescription drug or device or legend drug or device means (a) a drug or device which is required under federal law to be labeled with one of the following statements prior to being dispensed or delivered: (i) Caution: Federal law prohibits dispensing without prescription; (ii) Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian; or (iii) "Rx Only" or (b) a drug or device which is required by any applicable federal or state law to be dispensed pursuant only to a prescription or chart order or which is restricted to use by practitioners only;

(32) Prescription means an order for a drug or device issued by a practitioner for a specific patient, for emergency use, or for use in immunizations. Prescription does not include a chart order;

(33) Nonprescription drugs means nonnarcotic medicines or drugs which may be sold without a medical order 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;

(34) Public health clinic worker means a person in a public health clinic with a delegated dispensing permit who has completed the approved training and has demonstrated proficiency to perform the task of dispensing authorized refills of oral contraceptives pursuant to a written prescription;

(35) 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 as defined in section 71-416;

(36) Signature means the name, word, or mark of a person written in his or her own hand with the intent to authenticate a writing or other form of communication or a digital signature which complies with section 86-611 or an electronic signature;

(37) Supervision means the immediate personal guidance and direction by the licensed pharmacist on duty in the facility of the performance by a pharmacy technician of authorized activities or functions subject to verification by such pharmacist, except that when a pharmacy technician performs 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 persons who are patients or residents of a facility, the activities or functions of such pharmacy technician shall only be subject to verification by a pharmacist on duty in the facility;

(38) Verification means the confirmation by a supervising pharmacist of the accuracy and completeness of the acts, tasks, or functions undertaken by a pharmacy technician to assist the pharmacist in the practice of pharmacy;

(39) Written control procedures and guidelines means the document prepared and signed by the pharmacist in charge and approved by the board which specifies the manner in which basic levels of competency of pharmacy technicians employed by the pharmacy are determined, the manner in which supervision is provided, the manner in which the functions of pharmacy technicians are verified, the maximum ratio of pharmacy technicians to one pharmacist used in the pharmacy, and guidelines governing the use of pharmacy technicians and the functions which they may perform;

(40) Medical gas distributor means a person who dispenses medical gases to a patient or ultimate user but does not include a person who manufactures medical gases or a person who distributes, transfers, delivers, dispenses, or sells medical gases to a person other than a patient or ultimate user;

(41) Facsimile means a copy generated by a system that encodes a document or photograph into electrical signals, transmits those signals over telecommunications lines, and reconstructs the signals to create an exact duplicate of the original document at the receiving end;

(42) Electronic signature has the same definition found in section 86-621; and

(43) Electronic transmission means transmission of information in electronic form. Electronic transmission may include computer-to-computer transmission or computer-to-facsimile transmission.

Sec. 345. Section 71-1,143.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,143.01 (1) Every applicant for examination and licensure as a pharmacist shall be not less than twenty-one years of age, of good moral character and temperate habits, a graduate of an accredited pharmacy program, recognized by the board, except that an applicant who is a graduate of a pharmacy program located outside of the United States and which

is not accredited shall be deemed to have satisfied the requirement of being a graduate of an accredited pharmacy program upon providing evidence satisfactory to the board of graduation from such foreign pharmacy program and upon successfully passing an equivalency examination approved by the board.

(2) Every applicant shall (a) file proof of sufficient internship experience in pharmacy, under the supervision of a licensed pharmacist, as may be required by the board, which shall comply with national requirements for internship as set forth by the National Association of Boards of Pharmacy, (b) have satisfactorily completed at least five years of college of which at least three years shall have been in an accredited pharmacy program, and (c) pass an examination satisfactory to the board.

(3) Proof of the qualifications for licensure prescribed in this section shall be made to the satisfaction of the board, substantiated by proper affidavits. In all cases the actual time of attendance in an accredited pharmacy program shall be certified by the appropriate school, college, or university authority by the issuance of the degree granted to a graduate of such school, college, or university. Service and experience in pharmacy under the supervision of a licensed pharmacist, as required in this section, shall be predominantly related to the practice of pharmacy and shall include the keeping of records and the making of reports required under state and federal statutes. The ~~Department of Health and Human Services Regulation and Licensure~~, department, upon the recommendation of the board, shall adopt and promulgate rules and regulations as may be required to establish standards for internship which shall comply with national requirements to effect reciprocity with other states which have similar requirements for licensure. The required fee for pharmacy internship shall accompany the application.

Sec. 346. Section 71-1,147.26, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.26 The duration of any temporary educational permit issued pursuant to sections 71-1,147.17 to 71-1,147.32 shall be determined by the ~~Department of Health and Human Services Regulation and Licensure~~ department but in no case shall it be in excess of one year. The permit may be renewed from time to time at the discretion of the ~~Department of Health and Human Services Regulation and Licensure~~ department but in no case shall it be renewed for more than five one-year periods.

Sec. 347. Section 71-1,147.28, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.28 Before granting any temporary educational permit, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall ascertain by evidence satisfactory to the department that an accredited hospital or clinic or an accredited school or college of pharmacy in the State of Nebraska has requested the issuance of a temporary educational permit for an applicant to serve as a graduate student in its approved program for the period involved. Any application for the issuance of such permit shall be signed by the applicant requesting that such permit be issued to him or her and shall designate the specified approved graduate pharmacy educational program with respect to which such permit shall apply.

Sec. 348. Section 71-1,147.31, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.31 Any temporary educational permit granted under the authority of sections 71-1,147.17 to 71-1,147.32 may be suspended, limited, or revoked by the department, upon recommendation of the board, at any time upon a finding that the reasons for issuing such permit no longer exist or that the person to whom such permit has been issued is no longer qualified to hold such permit or for any reason for which a pharmacist license could be suspended, limited, or revoked. A hearing on the suspension, limitation, or revocation of the temporary educational permit by the department shall be held in the same manner as for the denial of a pharmacist license. The final order of the ~~Director of Regulation and Licensure~~ director may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 349. Section 71-1,147.33, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,147.33 (1) A pharmacy technician shall only perform tasks which do not require professional judgment and which are subject to verification to assist a pharmacist in the practice of pharmacy.

(2) The functions and tasks which shall not be performed by pharmacy technicians or individuals dispensing pursuant to a delegated dispensing permit include, but are not limited to:

(a) Receiving oral medical orders from a practitioner or his or her agent;

(b) Providing patient counseling;

(c) Performing any evaluation or necessary clarification of a

medical order or performing any functions other than strictly clerical functions involving a medical order;

(d) Supervising or verifying the tasks and functions of pharmacy technicians;

(e) Interpreting or evaluating the data contained in a patient's record maintained pursuant to section 71-1,147.35;

(f) Releasing any confidential information maintained by the pharmacy;

(g) Performing any professional consultations; and

(h) Drug product selecting, with regard to an individual medical order, in accordance with the Nebraska Drug Product Selection Act.

(3) The ~~Director of Regulation and Licensure~~ director shall, upon recommendation of the board, waive any of the limitations in subsection (2) of this section for purposes of a scientific study of the role of pharmacy technicians approved by the board. Such study shall be based upon providing improved patient care or enhanced pharmaceutical care. Any such waiver shall state the length of the study and shall require that all study data and results be made available to the board upon the completion of the study. Nothing in this subsection shall require the board to approve any study proposed by this subsection.

(4) The pharmacy employing pharmacy technicians shall be responsible for the supervision and performance of such technicians.

(5) The pharmacist in charge shall be responsible for the practice of pharmacy and the establishment of written control procedures and guidelines governing the qualifications, onsite training, functions, supervision, and verification of the performance of pharmacy technicians. The supervision of such technicians at the place of employment shall be performed by the licensed pharmacist who is on duty in the facility with the pharmacy technicians.

(6)(a) Each pharmacy shall document, in a manner and method specified in the written control procedures and guidelines, the basic competence of the pharmacy technician prior to performance of tasks and functions by such technician. Such basic competence shall include, but not be limited to:

(i) Basic pharmaceutical nomenclature;

(ii) Metric system measures, both liquid and solid;

(iii) The meaning and use of Roman numerals;

(iv) Abbreviations used for dosages and directions to patients;

(v) Basic medical terms, including terms relating to ailments, diseases, or infirmities;

(vi) The use and operation of automated dispensing and record-keeping systems if used by the employing pharmacy;

(vii) Applicable statutes, rules, and regulations governing the preparation, compounding, dispensing, and distribution of drugs or devices, record keeping with regard to such functions, and the employment, use, and functions of pharmacy technicians; and

(viii) The contents of the written control procedures and guidelines.

(b) Written control procedures and guidelines shall specify the functions that pharmacy technicians may perform in the employing pharmacy. The written control procedures and guidelines shall specify the means used by the employing pharmacy to verify that the prescribed drug or device, the dosage form, and the directions provided to the patient or caregiver conform to the medical order authorizing the drug or device to be dispensed.

(c) The written control procedures and guidelines shall specify the manner in which the verification made prior to dispensing is documented.

(7) Each pharmacy or facility shall, before using pharmacy technicians, file with the board a copy of its written control procedures and guidelines and receive approval of its written control procedures and guidelines from the board. The board shall, within ninety days from the filing of such written control procedures and guidelines, review and either approve or disapprove them. The board shall notify the pharmacy or facility of the approval or disapproval. The board or its representatives shall have access to the approved written control procedures and guidelines upon request. Any written control procedures and guidelines for supportive pharmacy personnel that were filed by a pharmacy and approved by the board prior to May 26, 1999, shall be deemed to be approved and to apply to pharmacy technicians.

(8) Any hospital using supportive pharmacy personnel prior to June 11, 1993, and using pharmacy technicians on or after May 1, 2001, shall file a copy of written control procedures and guidelines with the board by February 1, 2002, or such hospital shall be in violation of subsection (2) of section 71-1,147.

(9)(a) If pharmacy technicians perform functions requiring

professional judgment and licensure as a pharmacist, perform functions not specified under approved written control procedures and guidelines, or perform functions without supervision and such acts are known to the pharmacist supervising the pharmacy technicians or the pharmacist in charge or are of such a nature that they should have been known to a reasonable person, such acts may be considered acts of unprofessional conduct on the part of the pharmacist supervising the pharmacy technicians or the pharmacist in charge pursuant to section 71-147 against whom disciplinary measures may be taken.

(b) Acts described in subdivision (a) of this subsection may be grounds for the department, upon the recommendation of the board, to apply to the district court in the judicial district in which the pharmacy is located for an order to cease and desist from the performance of any unauthorized acts. On or at any time after such application the court may, in its discretion, issue an order restraining such pharmacy or its agents or employees from the performance of unauthorized acts. After a full hearing the court shall either grant or deny the application. Such order shall continue until the court, after a like hearing, finds the basis for such order has been removed.

Sec. 350. 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 delegated dispensing permit or to revoke, limit, suspend, or refuse renewal of a delegated dispensing permit, the department shall send to the applicant or permittee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, limitation, 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~~ director. 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. 351. 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 pursuant to section 71-1,147.44, the ~~Director of Regulation and Licensure~~ 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 against the permittee;
- (b) Place the permittee on probation;
- (c) 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;
- (d) Impose a civil penalty not to exceed twenty 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;
- (e) Enter an order of suspension of the permit;
- (f) Enter an order of revocation of the permit; and
- (g) 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 remit any collected civil penalty to the State Treasurer, within thirty days after receipt, for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. 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. 352. Section 71-1,147.48, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.48 (1) Upon recommendation of the board, the ~~Director of Regulation and Licensure~~ director shall approve a formulary to be used by individuals dispensing pursuant to a delegated dispensing permit. A formulary shall consist of a list of drugs or devices appropriate to delegated dispensing activities authorized by the delegated dispensing permit. Except as otherwise provided in this section, if the board finds that a formulary would be unnecessary to protect the public health and welfare and promote public convenience and necessity, the board shall recommend that no formulary be approved.

(2) (a) Upon the recommendation of the board, which shall be based on the recommendations of the Public Health Clinic Formulary Advisory Committee, the director shall approve the formulary to be used by public health clinics dispensing pursuant to a delegated 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, 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) Controlled substances;
- (ii) Drugs with significant dietary interactions;
- (iii) Drugs with significant drug-drug interactions; and
- (iv) Drugs or devices with complex counseling profiles.

(3) (a) Upon the recommendation of the board, the director shall approve a formulary to be used by dialysis drug or device distributors.

(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.

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

71-1,147.53 Under a delegated dispensing permit for 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 practitioner;

(3) The only prescriptions to be refilled under the delegated 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~~ director;

(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;

(6) All drugs or devices are prepackaged by the manufacturer or at 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 under the authority of public health clinics are properly labeled at all times. For purposes of this subdivision, properly labeled 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 means the expiration date on the manufacturer's container or one year from the date the drug is repackaged, whichever is earlier;

(c) Directions for patient use;

(d) The quantity of drug in the container;

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

(f) Auxiliary labels as needed for proper adherence to any prescription;

(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;

(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 delegating pharmacist for the public health clinic or on-call pharmacist 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 delegating pharmacist or on-call 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. 354. Section 71-1,147.59, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,147.59 (1) The board may appoint formulary advisory committees as deemed necessary for the determination of formularies for delegated dispensing permittees.

(2) The Public Health Clinic Formulary Advisory Committee is created. The committee shall consist of eight members as follows:

(a) Two members designated by the board;

(b) Two members who are employees of the department with knowledge of and interest in reproductive health and sexually transmitted diseases;

(c) Two members who are licensed pharmacists in this state and who are selected by the ~~Director of Regulation and Licensure~~ director. 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

(d) Two members who are employees of public health clinics which hold or will hold a delegated dispensing permit and who are selected by the director from names recommended by such public health clinics.

(3) Designations and recommendations shall be made and submitted to the director in July prior to the third quarter meeting of the committee. Members shall serve for terms of two years each beginning with the third quarter meeting. 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.

Sec. 355. Section 71-1,154, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,154 When used in the Nebraska Veterinary Practice Act and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Animal means any animal other than man and includes birds, fish, and reptiles, wild or domestic, living or dead, except domestic poultry;

(2) Veterinary medicine and surgery includes veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine;

(3) Practice of veterinary medicine and surgery means:

(a) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy or for correcting sterility or infertility. The acts described in this subdivision shall not be done without a valid veterinarian-client-patient relationship;

(b) To render advice or recommendation with regard to any act described in subdivision (a) of this subdivision;

(c) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (a) of this subdivision; and

(d) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision (a) of this subdivision;

(4) Veterinarian means a person who has received a ~~doctor's~~ degree in veterinary medicine the degree of Doctor of Veterinary Medicine or its equivalent from an accredited school of veterinary medicine; ~~or its equivalent;~~

(5) Licensed veterinarian means a person who is validly and currently licensed to practice veterinary medicine and surgery in this state;

(6) Veterinarian-client-patient relationship means that:

(a) The veterinarian has assumed the responsibility for making clinical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the veterinarian's instructions;

(b) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal or by medically appropriate and timely visits to the premises where the animal is kept; and

(c) The veterinarian is readily available or has arranged for emergency coverage and for followup evaluation in the event of adverse reactions or the failure of the treatment regimen;

(7) Accredited school of veterinary medicine within the meaning of the Nebraska Veterinary Practice Act means:

(a) One approved by the department upon the recommendation of the board;

(b) A veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent; and

(c) One that conforms to the standards required for accreditation by the American Veterinary Medical Association;

(8) Person means any individual, firm, partnership, limited liability company, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person;

(9) Board means the Board of Veterinary Medicine and Surgery;

(10) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(11) Veterinary technician means an individual who has met one of the requirements of subsection (1) of section 71-1,165;

(12) Licensed veterinary technician means a veterinary technician who is validly and currently licensed as a veterinary technician in this state. Only a licensed veterinary technician may advertise or offer his or her services in a manner calculated to lead others to believe that he or she is a veterinary technician;

(13) Unlicensed assistant means an individual who is not a



veterinarian or a veterinary technician who is working in veterinary medicine;

(14) Supervisor means a licensed veterinarian or licensed veterinary technician as required by statute or rule or regulation for the particular delegated task being performed by a veterinary technician or unlicensed assistant;

(15) Immediate supervision means that the supervisor is on the premises and is in direct eyesight and hearing range of the animal and the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task;

(16) Direct supervision means that the supervisor is on the premises and is available to the veterinary technician or unlicensed assistant who is treating the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task; and

(17) Indirect supervision means that the supervisor is not on the premises but is easily accessible and has given written or oral instructions for treatment of the animal and the animal has been examined by a veterinarian at such times as acceptable veterinary practice requires consistent with the particular delegated animal health care task.

Sec. 356. Section 71-1,190.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,190.01 Commencing July 1, 1985, all audiologists and speech-language pathologists, except those specified in section 71-1,187, shall be required to be licensed by the Department of Health and Human Services Regulation and Licensure. ~~department.~~

Sec. 357. Section 71-1,206.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,206.05 Department shall mean the Division of Public Health of the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 358. Section 71-1,206.18, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,206.18 Except as provided in this section, a person licensed as a psychologist under the law in effect immediately prior to September 1, 1994, but not certified in clinical psychology:

(1) Shall be issued a special license to practice psychology that continues existing requirements for supervision. Any psychological practice that involves the diagnosis and treatment of major mental and emotional disorders by a person holding a special license shall be done under the supervision of a licensed psychologist approved by the board in accordance with regulations developed by the board. A psychologist licensed under this subdivision shall not supervise mental health practitioners or independently evaluate persons under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act. Supervisory relationships shall be registered with the board by a notarized letter signed by both the supervisor and supervisee. The letter shall contain:

(a) A general description of the supervisee's practice and the plan of supervision;

(b) A statement by the supervisor that he or she has the necessary experience and training to supervise this area of practice; and

(c) A statement by the supervisor that he or she accepts the legal and professional responsibility for the supervisee's practice with individuals having major mental and emotional disorders.

Psychologists practicing with special licenses may continue to use the title licensed psychologist but shall disclose supervisory relationships to clients or patients for whom supervision is required and to third-party payors when relevant. Psychologists who wish to continue supervisory relationships existing immediately prior to September 1, 1994, with qualified physicians may do so if a letter as described in this subdivision is received by the board within three months after such date;

(2) May apply for licensure before December 1, 1995, by demonstrating that he or she has rendered psychological diagnostic and treatment services as the major element of his or her employment in an educational, correctional, or health care setting for at least four years after licensure. A psychologist demonstrating such experience shall be deemed to have met equivalent requirements for licensure to those required by section 71-1,206.15 and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law. For purposes of this subdivision:

(a) Educational settings shall be those which are part of a university or state college and those regulated by the State Department of Education;

(b) Correctional settings shall be those under the jurisdiction of the Department of Correctional Services; and

(c) Health care settings shall be hospitals, skilled nursing facilities, clinics, and mental health centers licensed by the Division of Public Health of the Department of Health and Human Services ~~Regulation and Licensure~~ and accredited by the Joint Commission on Hospital Accreditation, by the Commission on Accreditation of Rehabilitation Facilities, by the Department of Health and Human Services, or by a similar or an equivalent accrediting body as determined by the board.

The four-year period shall be continuous and represent four years of full-time employment or a combination of half-time and full-time employment that totals four years. For purposes of this subdivision, year shall mean a calendar year except for educational settings that may define the employment year in nine-month increments. In no case shall an applicant receive four years of credit for experience accrued in less than four calendar years; or

(3) May apply for licensure within three months of September 1, 1994, by demonstrating that he or she has been employed as full-time faculty in a program of graduate education in psychology approved by the American Psychological Association for a period not less than five years after licensure. A person demonstrating such employment shall be deemed to have met equivalent requirements for licensure under section 71-1,206.15 and shall be eligible for renewal of licensure in accordance with the Uniform Licensing Law.

A person licensed but not certified to practice clinical psychology under the law in effect immediately prior to September 1, 1994, who has failed the examination for clinical certification shall not be eligible to apply under subdivisions (2) and (3) of this section. The board may deny an application under such subdivisions if the applicant has had any action taken against him or her for violations of the laws licensing psychologists by the board or the boards of other jurisdictions. Such person shall be granted a special license under subdivision (1) of this section.

Sec. 359. Section 71-1,238, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,238 For purposes of sections 71-1,238 to 71-1,242, unless the context otherwise requires:

(1) Athletic trainer means a person who is responsible for the prevention, emergency care, first aid, treatment, and rehabilitation of athletic injuries under guidelines established with a licensed physician and who is licensed to perform the functions set out in section 71-1,240. When athletic training is provided in a hospital outpatient department or clinic or an outpatient-based medical facility, the athletic trainer will perform the functions described in section 71-1,240 with a referral from a licensed physician for athletic training;

(2) Athletic training means the prevention, evaluation, emergency care, first aid, treatment, and rehabilitation of athletic injuries utilizing the treatments set out in section 71-1,240;

(3) Athletic injuries means the types of musculoskeletal injury or common illness and conditions which athletic trainers are educated to treat or refer, incurred by athletes, which prevent or limit participation in sports or recreation;

(4) Board means the Board of Athletic Training;

(5) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~ and

(6) Practice site means the location where the athletic trainer practices athletic training.

Sec. 360. Section 71-1,290, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,290 The department shall issue a license, signed by the ~~Director of Regulation and Licensure,~~ director, to each person who is qualified to be a licensed medical nutrition therapist.

Sec. 361. Section 71-1,312, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,312 No person shall engage in mental health practice or hold himself or herself out as a mental health practitioner unless he or she is licensed for such purpose pursuant to the Uniform Licensing Law, except that this section shall not be construed to prevent:

(1) Qualified members of other professions who are licensed, certified, or registered by this state from practice of any mental health activity consistent with the scope of practice of their respective professions;

(2) Alcohol and drug counselors who are licensed by the Division of Public Health of the Department of Health and Human Services ~~Regulation and~~

Licensure and problem gambling counselors who are certified by the Department of Health and Human Services from practicing their profession. Such exclusion shall include students training and working under the supervision of an individual qualified under section 71-1,356;

(3) Any person employed by an agency, bureau, or division of the federal government from discharging his or her official duties, except that if such person engages in mental health practice in this state outside the scope of such official duty or represents himself or herself as a licensed mental health practitioner, he or she shall be licensed;

(4) Teaching or the conduct of research related to mental health services or consultation with organizations or institutions if such teaching, research, or consultation does not involve the delivery or supervision of mental health services to individuals or groups of individuals who are themselves, rather than a third party, the intended beneficiaries of such services;

(5) The delivery of mental health services by:

(a) Students, interns, or residents whose activities constitute a part of the course of study for medicine, psychology, nursing, school psychology, social work, clinical social work, counseling, marriage and family therapy, or other health care or mental health service professions; or

(b) Individuals seeking to fulfill postgraduate requirements for licensure when those individuals are supervised by a licensed professional consistent with the applicable regulations of the appropriate professional board;

(6) Duly recognized members of the clergy from providing mental health services in the course of their ministerial duties and consistent with the codes of ethics of their profession if they do not represent themselves to be mental health practitioners;

(7) The incidental exchange of advice or support by persons who do not represent themselves as engaging in mental health practice, including participation in self-help groups when the leaders of such groups receive no compensation for their participation and do not represent themselves as mental health practitioners or their services as mental health practice;

(8) Any person providing emergency crisis intervention or referral services or limited services supporting a service plan developed by and delivered under the supervision of a licensed mental health practitioner, licensed physician, or a psychologist licensed to engage in the practice of psychology if such persons are not represented as being licensed mental health practitioners or their services are not represented as mental health practice; or

(9) Staff employed in a program designated by an agency of state government to provide rehabilitation and support services to individuals with mental illness from completing a rehabilitation assessment or preparing, implementing, and evaluating an individual rehabilitation plan.

Sec. 362. Section 71-1,339, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,339 The clerk of any county or district court in this state shall report to the Division of Public Health of the Department of Health and Human Services Regulation and Licensure the conviction of any person licensed, certified, or registered by the department under the Advanced Practice Registered Nurse Licensure Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, the Emergency Medical Services Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Uniform Controlled Substances Act, the Uniform Licensing Law, the Wholesale Drug Distributor Licensing Act, or sections 71-3702 to 71-3715, 71-4701 to 71-4719, or 71-6053 to 71-6068 of any felony or of any misdemeanor involving the use, sale, distribution, administration, or dispensing of a controlled substance, alcohol or chemical impairment, or substance abuse and shall also report a judgment against any such licensee, certificate holder, or registrant arising out of a claim of professional liability. The Attorney General or city or county prosecutor prosecuting any such criminal action and plaintiff in any such civil action shall provide the court with information concerning the licensure, certification, or registration of the defendant or party. Notice to the department shall be filed within thirty days after the date of conviction or judgment in a manner agreed to by the ~~Director of Regulation and Licensure~~ Director of Public Health of the division and the State Court Administrator.

Sec. 363. Section 71-1,341, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,341 For purposes of sections 71-1,340 to 71-1,342:

(1) Credentialing means the grant of authority or approval by the state to health care practitioners, facilities, and providers who provide health care or related services through licensure, certification, registration, approval of provider status, enrollment in a program for reimbursement, and other similar activities;

(2) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(3) Director means the Director of ~~Regulation and Licensure;~~ Public Health of the Division of Public Health;

(4) Facility means a health care facility or health care service licensed under the Health Care Facility Licensure Act to provide health care;

(5) Health care practitioner means an individual licensed, certified, or otherwise authorized by law to administer health care in the course of professional practice; and

(6) Provider means a person providing health care services under an agreement with the state and its contractors for payment for those services.

Sec. 364. Section 71-1,367, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1,367 Department means the Division of Public Health of the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 365. Section 71-354, Reissue Revised Statutes of Nebraska, is amended to read:

71-354 Department shall mean the Division of Public Health of the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 366. Section 71-390, Reissue Revised Statutes of Nebraska, is amended to read:

71-390 (1) Examinations approved by the board may be national standardized examinations, but in all cases the examinations shall be related to the knowledge and skills necessary to perform the practices being examined and shall be related to the curricula required to be taught in schools of cosmetology or schools of electrolysis.

(2) The board shall fix the time and place of each examination no less than one year in advance. At least two examinations shall be given annually. All examinations shall be conducted in the city of Lincoln unless ordered otherwise by the department.

(3) If examinations are administered directly by the department, the examination shall be administered by a chief examiner who shall be an employee of the department. Persons serving as examiners for practical examinations administered directly by the department shall hold current licenses in the field of practice being examined or in cosmetology, except that examiners for instructors' examinations shall each hold an instructor's license, either active or inactive.

(4) Practical examinations shall be conducted in such a manner that the identity of the applicant is not disclosed to the examiners in any way.

(5) In order to successfully complete the examination, an applicant shall obtain an average grade of seventy-five percent on the written examination and an average grade of seventy-five percent with no individual subject grade below sixty-five percent on the practical examination.

(6) For practical examinations administered directly by the department, examination grades shall be approved by the board and the department before they become official. Any disagreements regarding a grade to be given among the examiners shall be settled by the chief examiner. An examiner may appeal such a decision to the Director of ~~Regulation and Licensure~~ Public Health or his or her designee.

(7) The department shall keep a permanent record of all grades received in examinations and shall provide any individual a copy of his or her grades upon request without charge.

(8) The department may adopt and promulgate rules and regulations to provide for procedures, development, administration, scoring, and reviewing of examinations and to protect the security of the contents of examination questions and answers in the examination review. The department shall not enter into an agreement to adopt an examination from a national testing service without first obtaining from such service detailed documentation of the process of examination development and maintenance.

Sec. 367. Section 71-3,173, Reissue Revised Statutes of Nebraska, is amended to read:

71-3,173 (1) The hearing in any disciplinary action shall be before the ~~director~~ Director of Public Health or a hearing officer appointed by the director.

(2) The department may impose the disciplinary actions cited in section 71-155.

Sec. 368. Section 71-3,174, Revised Statutes Cumulative Supplement,

2006, is amended to read:

71-3,174 (1) Persons, cosmetology, nail technology, and electrology establishments, and body art facilities holding licenses, registrations, or permits under the Nebraska Cosmetology Act shall be subject to the disciplinary actions described in section 71-155 and in sections 71-3,170 to 71-3,173 upon the finding by the ~~director~~ Director of Public Health that a violation has occurred.

(2) A person not holding a license, registration, or permit under the Nebraska Cosmetology Act shall, upon conviction of violation of such act, except as specific penalties are otherwise imposed, be guilty of a Class II misdemeanor. Any such person convicted of a second violation of the Nebraska Cosmetology Act, except as specific penalties are otherwise imposed, shall be guilty of a Class I misdemeanor.

(3) Any person engaging in any of the practices regulated under the Nebraska Cosmetology Act, any person operating an establishment or a facility without being duly licensed or registered under the Nebraska Cosmetology Act, any person engaging in the provision of home services without having complied with such act, or any person found to be acting in violation of the Nebraska Cosmetology Act may be restrained by a temporary or permanent injunction.

Sec. 369. Section 71-410, Reissue Revised Statutes of Nebraska, is amended to read:

71-410 Department means the Division of Public Health of the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 370. Section 71-411, Reissue Revised Statutes of Nebraska, is amended to read:

71-411 Director means the Director of ~~Regulation and Licensure.~~ Public Health of the Division of Public Health.

Sec. 371. Section 71-434, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-434 (1) Licensure activities under the Health Care Facility Licensure Act shall be funded by license fees. An applicant for an initial or renewal license under section 71-433 shall pay a license fee as provided in this section.

(2) License fees shall include a base fee of fifty dollars and an additional fee based on:

(a) Variable costs to the department of inspections, architectural plan reviews, and receiving and investigating complaints, including staff salaries, travel, and other similar direct and indirect costs;

(b) The number of beds available to persons residing at the health care facility;

(c) The program capacity of the health care facility or health care service; or

(d) Other relevant factors as determined by the department.

Such additional fee shall be no more than two thousand six hundred dollars for a hospital or a health clinic operating as an ambulatory surgical center, no more than two thousand dollars for an assisted-living facility, a health clinic providing hemodialysis or labor and delivery services, an intermediate care facility, an intermediate care facility for the mentally retarded, a nursing facility, or a skilled nursing facility, no more than one thousand dollars for home health agencies, hospice services, and centers for the developmentally disabled, and no more than seven hundred dollars for all other health care facilities and health care services.

(3) If the licensure application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars as an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

(4) The department shall also collect the fee provided in subsection (1) of this section for reinstatement of a license that has lapsed or has been suspended or revoked. The department shall collect a fee of ten dollars for a duplicate original license.

(5) The department shall adopt and promulgate rules and regulations for the establishment of license fees under this section.

(6) The department shall remit all license fees collected under this section to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. License fees collected under this section shall only be used for activities related to the licensure of health care facilities and health care services.

Sec. 372. Section 71-445, Reissue Revised Statutes of Nebraska, is amended to read:

71-445 A health care facility or health care service shall not discriminate or retaliate against a person residing in, served by, or employed at such facility or service who has initiated or participated in

any proceeding authorized by the Health Care Facility Licensure Act or who has presented a complaint or provided information to the administrator of such facility or service, ~~or the Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure.~~ Such person may maintain an action for any type of relief, including injunctive and declaratory relief, permitted by law.

Sec. 373. Section 71-448, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-448 ~~The department~~ Division of Public Health of the Department of Health and Human Services may take disciplinary action against a license issued under the Health Care Facility Licensure Act on any of the following grounds:

(1) Violation of any of the provisions of the Assisted-Living Facility Act, the Health Care Facility Licensure Act, the Nebraska Nursing Home Act, or the rules and regulations adopted and promulgated under such acts;

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

(3) Conduct or practices detrimental to the health or safety of a person residing in, served by, or employed at the health care facility or health care service;

(4) A report from an accreditation body or public agency sanctioning, modifying, terminating, or withdrawing the accreditation or certification of the health care facility or health care service;

(5) Failure to allow an agent or employee of the Department of Health and Human Services, ~~the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure~~ access to the health care facility or health care service for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of ~~such departments,~~ the Department of Health and Human Services;

(6) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has submitted a complaint or information to the Department of Health and Human Services; ~~the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure;~~

(7) Discrimination or retaliation against a person residing in, served by, or employed at the health care facility or health care service who has presented a grievance or information to the office of the state long-term care ombudsman;

(8) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to the health care facility or health care service for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations adopted and promulgated by the Department of Health and Human Services;

(9) Violation of the Emergency Box Drug Act;

(10) Failure to file a report required by section 71-168.02;

(11) Violation of the Medication Aide Act; or

(12) Failure to file a report of suspected abuse or neglect as required by sections 28-372 and 28-711.

Sec. 374. Section 71-501, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-501 (1) The local public health department as defined in section 71-1626 or the county board of a county that has not established or joined in the establishment of a local public health department shall make and enforce regulations to prevent the introduction and spread of contagious, infectious, and malignant diseases in the county or counties under its jurisdiction.

(2) The county board of a county that has not established or joined in the establishment of a local public health department shall establish a county board of health consisting of three members: The sheriff, who shall be chairperson and quarantine officer; a physician who resides permanently in the county, but if the county has no resident physician, then one conveniently situated, who shall be medical adviser, and who shall be chosen by the county board; and the county clerk, who shall be secretary. The county board may pay the chairperson of the county board of health a salary for such services not to exceed fifty dollars per month, as fixed by the county board.

(3) The local public health department or the county board of health shall make rules and regulations to safeguard the health of the people and prevent nuisances and insanitary conditions and shall enforce and provide penalties for the violation of such rules and regulations for the county or

counties under its jurisdiction except for incorporated cities and villages. If the local public health department or the county board of health fails to enact such rules and regulations, it shall enforce the rules and regulations adopted and promulgated by the Department of Health and Human Services, ~~Regulation and Licensure.~~

Sec. 375. Section 71-501.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-501.02 The Department of Health and Human Services ~~Regulation and Licensure~~ may establish and administer a statewide acquired immunodeficiency syndrome program for the purpose of providing education, prevention, detection, and counseling services to protect the public health. In order to implement the program, the department may:

(1) Apply for, receive, and administer federal and other public and private funds and contract for services, equipment, and property as necessary to use such funds for the purposes specified in section 71-501.01 and this section;

(2) Provide education and training regarding acquired immunodeficiency syndrome and its related diseases and conditions to the general public and to health care providers. The department may charge fees based on administrative costs for such services. Any fees collected shall be deposited in the state treasury and shall be credited to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund;

(3) Provide resource referrals for medical care and social services to persons affected by acquired immunodeficiency syndrome and its related diseases and conditions;

(4) Contract or provide for voluntary, anonymous, or confidential screening, testing, and counseling services. All sites providing such services pursuant to a contract with the department shall provide services on an anonymous basis if so requested by the individual seeking such services. The department may charge and permit its contractors to charge an administrative fee or may request donations to defer the cost of the services but shall not deny the services for failure to pay any administrative fee or for failure to make a donation;

(5) Cooperate with the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor for the purposes of research into and investigation of acquired immunodeficiency syndrome and its related diseases and conditions; and

(6) To the extent funds are available, offer services that are culturally and language specific upon request to persons identified as having tested positive for the human immunodeficiency virus infection. Such services shall include, but not be limited to, posttest counseling, partner notification, and such early intervention services as case management, behavior modification and support services, laboratory quantification of lymphocyte subsets, immunizations, Mantoux testing for tuberculosis, prophylactic treatment, and referral for other medical and social services.

Sec. 376. Section 71-502, Reissue Revised Statutes of Nebraska, is amended to read:

71-502 The Department of Health and Human Services ~~Regulation and Licensure~~ shall have supervision and control of all matters relating to necessary communicable disease control and shall adopt and promulgate such proper and reasonable general rules and regulations as will best serve to promote communicable disease control throughout the state and prevent the introduction or spread of disease. In addition to such general and standing rules and regulations, (1) in cases of emergency in which the health of the people of the entire state or any locality in the state is menaced by or exposed to any contagious, infectious, or epidemic disease, illness, or poisoning, (2) when a local board of health having jurisdiction of a particular locality fails or refuses to act with sufficient promptitude and efficiency in any such emergency, or (3) in localities in which no local board of health has been established, as provided by law, the department shall adopt, promulgate, and enforce special communicable disease control rules and regulations such as the occasion and proper protection of the public health may require. All necessary expenses incurred in the enforcement of such rules and regulations shall be paid by the city, village, or county for and within which the same have been incurred. All officers and other persons shall obey and enforce such communicable disease control rules and regulations as may be adopted and promulgated by the department.

Sec. 377. Section 71-502.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-502.01 Sexually transmitted diseases are declared to be

contagious, infectious, communicable, and dangerous to the public health. Sexually transmitted diseases shall include, but not be limited to, syphilis, gonorrhea, chancroid, and such other sexually transmitted diseases as the Department of Health and Human Services ~~Regulation and Licensure~~ may from time to time specify.

Sec. 378. Section 71-502.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-502.02 The Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt and promulgate such rules and regulations as shall, in its judgment, be necessary to control and suppress sexually transmitted diseases.

Sec. 379. Section 71-502.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-502.03 Every physician, or other person authorized by law to practice obstetrics, who is attending a pregnant woman in the state for conditions relating to her pregnancy during the period of gestation or at delivery shall take or cause to be taken a sample of the blood of such woman at the time of the first examination and shall submit such sample to an approved laboratory for a standard serological test for syphilis. Every other person permitted by law to attend pregnant women in the state, but not permitted by law to take blood samples, shall cause such a sample of the blood of such pregnant women to be taken by a physician, duly licensed to practice either medicine and surgery or obstetrics, or other person authorized by law to take such sample of blood and have such sample submitted to an approved laboratory for a standard serological test for syphilis. The results of all such laboratory tests shall be reported to the ~~Director of Regulation and Licensure~~ Department of Health and Human Services on standard forms prescribed and furnished by the ~~Department of Health and Human Services Regulation and Licensure~~ department. For the purpose of this section, a standard serological test shall be a test for syphilis approved by the ~~Director of Regulation and Licensure~~ department and shall be made at a laboratory approved to make such tests by the ~~Director of Regulation and Licensure~~ department. Such laboratory tests, as are required by this section, shall be made on request at the ~~Department of Health and Human Services Regulation and Licensure~~ laboratory. Laboratory. A fee may be established by rule and regulation by the department to defray no more than the actual cost of such tests. Such fee shall be deposited in the state treasury and credited to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. In reporting every birth and stillbirth, physicians and others required to make such reports shall state on the portion of the certificate entitled For Medical and Health Use Only whether a blood test for syphilis has been made upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed and the approximate date when the specimen was taken. No birth certificate shall show the result of such test. If no test was made, the reason shall be stated. The department shall provide the necessary clerical, printing, and other expenses in carrying out this section.

Sec. 380. Section 71-502.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-502.04 Any person who is in charge of a clinical laboratory in which a laboratory examination of any specimen derived from the human body yields microscopical, cultural, immunological, serological, or other evidence of disease, illness, or poisoning as the Department of Health and Human Services ~~Regulation and Licensure~~ may from time to time specify shall promptly notify the official local health department or the Department of Health and Human Services ~~Regulation and Licensure~~ of such findings.

Each notification shall give the date and result of the test performed, the name and, when available, the age of the person from whom the specimen was obtained, and the name and address of the physician for whom such examination or test was performed. A legible copy of the laboratory report shall be deemed satisfactory notification.

Sec. 381. Section 71-503, Reissue Revised Statutes of Nebraska, is amended to read:

71-503 All attending physicians shall report to the official local health department or the Department of Health and Human Services ~~Regulation and Licensure~~ promptly, upon the discovery thereof, the existence of any contagious or infectious diseases and such other disease, illness, or poisoning as the Department of Health and Human Services ~~Regulation and Licensure~~ may from time to time specify. Any attending physician, knowing of the existence of any such disease, illness, or poisoning, who fails promptly to report the same in accordance with this section, shall be deemed guilty of a Class V misdemeanor for each offense.



Sec. 382. Section 71-503.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-503.01 Whenever any statute of the state, any ordinance or resolution of a municipal corporation or political subdivision enacted pursuant to statute, or any rule or regulation of an administrative agency adopted and promulgated pursuant to statute requires medical practitioners or other persons to report cases of communicable diseases, including sexually transmitted diseases and other reportable diseases, illnesses, or poisonings or to give notification of positive laboratory findings to the Department of Health and Human Services ~~Regulation and Licensure~~ or any county or city board of health, local health department established pursuant to sections 71-1626 to 71-1636, city health department, local health agency, or state or local public official exercising the duties and responsibilities of any board of health or health department, such reports or notifications and the resulting investigations shall be confidential except as provided in this section, shall not be subject to subpoena, and shall be privileged and inadmissible in evidence in any legal proceeding of any kind or character and shall not be disclosed to any other department or agency of the State of Nebraska.

In order to further the protection of public health, such reports and notifications may be disclosed by the Department of Health and Human Services, ~~Regulation and Licensure~~, the official local health department, and the person making such reports or notifications to the Centers for Disease Control and Prevention of the Public Health Service of the United States Department of Health and Human Services or its successor in such a manner as to ensure that the identity of any individual cannot be ascertained. To further protect the public health, the Department of Health and Human Services, ~~Regulation and Licensure~~, the official local health department, and the person making the report or notification may disclose to the official state and local health departments of other states, territories, and the District of Columbia such reports and notifications, including sufficient identification and information so as to ensure that such investigations as deemed necessary are made.

The appropriate board, health department, agency, or official may: (1) Publish analyses of such reports and information for scientific and public health purposes in such a manner as to ensure that the identity of any individual concerned cannot be ascertained; (2) discuss the report or notification with the attending physician; and (3) make such investigation as deemed necessary.

Any medical practitioner, any official health department, the Department of Health and Human Services, ~~Regulation and Licensure~~, or any other person making such reports or notifications shall be immune from suit for slander or libel or breach of privileged communication based on any statements contained in such reports and notifications.

Sec. 383. Section 71-504, Reissue Revised Statutes of Nebraska, is amended to read:

71-504 ~~The Director of Health and Human Services, the Director of Regulation and Licensure,~~ chief medical officer as designated in section 6 of this act, or local director of health, if a physician, or his or her agent, or any physician, upon consultation by any person as a patient, shall, with the consent of such person who is hereby granted the right of giving such consent, make or cause to be made a diagnostic examination for sexually transmitted diseases and prescribe for and treat such person for sexually transmitted diseases including prophylactic treatment for exposure to sexually transmitted diseases whenever such person is suspected of having a sexually transmitted disease or contact with anyone having a sexually transmitted disease. All such examinations and treatment may be performed without the consent of or notification to the parent, parents, guardian, or any other person having custody of such person. In any such case, the ~~Director of Health and Human Services, the Director of Regulation and Licensure,~~ chief medical officer, or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions. The ~~Director of Health and Human Services~~ chief medical officer or local director of health, if a physician, or his or her agent, or the physician shall incur no civil or criminal liability by reason of any adverse reaction to medication administered if reasonable care is taken to elicit from any such person who is under twenty years of age any history of sensitivity or previous adverse reaction to medication. Parents shall be liable for expenses of such treatment to minors under their custody. In the event such person is affected with a sexually transmitted disease, the ~~Director of Regulation and Licensure~~ chief medical officer or local director of health may cause an interview of the

person by a sexually transmitted disease investigator to secure the names of sexual contacts so that appropriate investigation can be made in an effort to locate and eliminate sources of infection.

Sec. 384. Section 71-505, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-505 (1) The Department of Health and Human Services ~~Regulation and Licensure~~ shall secure and maintain in all parts of the state an official record and notification of reportable diseases, illnesses, or poisonings, provide popular literature upon the different branches of public health and distribute the same free throughout the state in a manner best calculated to promote that interest, prepare and exhibit in the different communities of the state public health demonstrations accompanied by lectures and audiovisual aids, provide preventive services to protect the public, and in all other effective ways prevent the origin and spread of disease and promote the public health.

(2) The department may provide technical services to and on behalf of health care providers and may charge fees for such services in an amount sufficient to recover the administrative costs of such services. Such fees shall be paid into the state treasury and credited to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund.

Sec. 385. Section 71-507, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-507 For purposes of sections 71-507 to 71-513:

(1) Alternate facility means a facility other than a health care facility that receives a patient transported to the facility by an emergency services provider;

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

(3) Designated physician means the physician representing the emergency services provider as identified by name, address, and telephone number on the significant exposure report form. The designated physician shall serve as the contact for notification in the event an emergency services provider believes he or she has had significant exposure to an infectious disease or condition. Each emergency services provider shall designate a physician as provided in subsection (2) of section 71-509;

(4) Emergency services provider means an out-of-hospital emergency care provider certified pursuant to the Emergency Medical Services Act, a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a funeral director, a paid or volunteer firefighter, a school district employee, and a person rendering emergency care gratuitously as described in section 25-21,186;

(5) Funeral director means a person licensed under section 71-1302 or an employee of such a person with responsibility for transport or handling of a deceased human;

(6) Funeral establishment means a business licensed under section 71-1327;

(7) Health care facility has the meaning found in sections 71-419, 71-420, 71-424, and 71-429 or any facility that receives patients of emergencies who are transported to the facility by emergency services providers;

(8) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, diphtheria, plague, hemorrhagic fevers, rabies, and such other diseases as the department may by rule and regulation specify;

(9) Patient means an individual who is sick, injured, wounded, deceased, or otherwise helpless or incapacitated;

(10) Patient's attending physician means the physician having the primary responsibility for the patient as indicated on the records of a health care facility;

(11) Provider agency means any law enforcement agency, fire department, emergency medical service, funeral establishment, or other entity which employs or directs emergency services providers or public safety officials;

(12) Public safety official means a sheriff, a deputy sheriff, a police officer, a state highway patrol officer, a paid or volunteer firefighter, a school district employee, and any civilian law enforcement employee or volunteer performing his or her duties, other than those as an emergency services provider;

(13) Responsible person means an individual who has been designated by an alternate facility to carry out the facility's responsibilities under sections 71-507 to 71-513. A responsible person may be designated on a

case-by-case basis;

(14) Significant exposure means a situation in which the body fluids, including blood, saliva, urine, respiratory secretions, or feces, of a patient or individual have entered the body of an emergency services provider or public safety official through a body opening including the mouth or nose, a mucous membrane, or a break in skin from cuts or abrasions, from a contaminated needlestick or scalpel, from intimate respiratory contact, or through any other situation when the patient's or individual's body fluids may have entered the emergency services provider's or public safety official's body or when an airborne pathogen may have been transmitted from the patient or individual to the emergency services provider or public safety official; and

(15) Significant exposure report form means the form used by the emergency services provider to document information necessary for notification of significant exposure to an infectious disease or condition.

Sec. 386. Section 71-514.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-514.02 For purposes of sections 71-514.01 to 71-514.05:

(1) Health care provider means a person who provides care to a patient which is designed to improve the status of his or her health whether this care is rendered in the hospital or community setting and whether the provider is paid or voluntary. Health care provider does not mean an emergency services provider as defined in section 71-507;

(2) Infectious disease or condition means hepatitis B, hepatitis C, meningococcal meningitis, active pulmonary tuberculosis, human immunodeficiency virus, and such other diseases as the Department of Health and Human Services ~~Regulation and Licensure~~ may from time to time specify;

(3) Patient means an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(4) Provider agency means any health care facility or agency which is in the business of providing health care services; and

(5) Significant exposure to blood or other body fluid means a specific eye, mouth, other mucous membrane, nonintact skin, or parenteral contact with blood or other materials known to transmit infectious diseases that results from providing care.

Sec. 387. Section 71-516.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-516.02 The Legislature finds and declares that:

(1) Certain nursing homes and related facilities and assisted-living facilities claim special care for persons who have Alzheimer's disease, dementia, or a related disorder;

(2) It is in the public interest to provide for the protection of consumers regarding the accuracy and authenticity of such claims; and

(3) The provisions of the Alzheimer's Special Care Disclosure Act are intended to require such facilities to disclose the reasons for those claims, require records of such disclosures to be kept, and require the Department of Health and Human Services ~~Regulation and Licensure~~ to examine the records.

Sec. 388. Section 71-516.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-516.03 For the purposes of the Alzheimer's Special Care Disclosure Act, Alzheimer's special care unit shall mean any nursing facility or assisted-living facility, licensed by the Department of Health and Human Services, ~~Regulation and Licensure~~, which secures, segregates, or provides a special program or special unit for residents with a diagnosis of probable Alzheimer's disease, dementia, or a related disorder and which advertises, markets, or otherwise promotes the facility as providing specialized Alzheimer's disease, dementia, or related disorder care services.

Sec. 389. Section 71-516.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-516.04 Any facility which offers to provide or provides care for persons with Alzheimer's disease, dementia, or a related disorder by means of an Alzheimer's special care unit shall disclose the form of care or treatment provided that distinguishes such form as being especially applicable to or suitable for such persons. The disclosure shall be made to the Department of Health and Human Services ~~Regulation and Licensure~~ and to any person seeking placement within an Alzheimer's special care unit. The department shall examine all such disclosures in the records of the department as part of the facility's license renewal procedure at the time of licensure or relicensure.

The information disclosed shall explain the additional care provided in each of the following areas:

(1) The Alzheimer's special care unit's written statement of its

overall philosophy and mission which reflects the needs of residents afflicted with Alzheimer's disease, dementia, or a related disorder;

(2) The process and criteria for placement in, transfer to, or discharge from the unit;

(3) The process used for assessment and establishment of the plan of care and its implementation, including the method by which the plan of care evolves and is responsive to changes in condition;

(4) Staff training and continuing education practices;

(5) The physical environment and design features appropriate to support the functioning of cognitively impaired adult residents;

(6) The frequency and types of resident activities;

(7) The involvement of families and the availability of family support programs; and

(8) The costs of care and any additional fees.

Sec. 390. Section 71-519, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-519 (1) All infants born in the State of Nebraska shall be screened for phenylketonuria, primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, medium-chain acyl co-a dehydrogenase (MCAD) 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 if a presumptive positive result on the screening test is obtained.

(2) The attending physician shall collect or cause to be collected the prescribed blood specimen or specimens and shall submit or cause to be submitted the same to the laboratory designated by the department for the performance of such tests within the period and in the manner prescribed by the department. If a birth is not attended by a physician and the infant does not have a physician, the person registering the birth shall cause such tests to be performed within the period and in the manner prescribed by the department. The laboratory shall within the period and in the manner 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, the hospital or other birthing facility or other submitter, and the department. 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.

(3) The hospital or other birthing facility shall record the collection of specimens for tests for metabolic diseases and the report of the results of such tests or the absence of such report. For purposes of tracking, monitoring, and referral, the hospital or other birthing facility shall provide from its records, upon the department's request, information about the infant's and mother's location and contact information, and care and treatment of the infant.

(4) (a) The department shall have authority over the use, retention, and disposal of blood specimens and all related information collected in connection with metabolic disease testing conducted under subsection (1) of this section.

(b) The department shall adopt and promulgate rules and regulations relating to the retention and disposal of such specimens. The rules and regulations shall: (i) Be consistent with nationally recognized standards for laboratory accreditation and shall comply with all applicable provisions of federal law; (ii) require that the disposal be conducted in the presence of a witness who may be an individual involved in the disposal or any other individual; and (iii) provide for maintenance of a written or electronic record of the disposal, verified by such witness.

(c) The department shall adopt and promulgate rules and regulations relating to the use of such specimens and related information. Such use shall only be made for public health purposes and shall comply with all applicable provisions of federal law. The department may charge a reasonable fee for evaluating proposals relating to the use of such specimens for public health research and for preparing and supplying specimens for research proposals approved by the department.

(5) The department shall prepare written materials explaining the requirements of this section. The department shall include the following information in the pamphlet:

(a) The nature and purpose of the testing program required under this section, including, but not limited to, a brief description of each condition or disorder listed in subsection (1) of this section;

(b) The purpose and value of the infant's parent, guardian, or person in loco parentis retaining a blood specimen obtained under subsection

(6) of this section in a safe place;

(c) The department's procedures for retaining and disposing of blood specimens developed under subsection (4) of this section; and

(d) That the blood specimens taken for purposes of conducting the tests required under subsection (1) of this section may be used for research pursuant to subsection (4) of this section.

(6) In addition to the requirements of subsection (1) of this section, the attending physician or person registering the birth may offer to draw an additional blood specimen from the infant. If such an offer is made, it shall be made to the infant's parent, guardian, or person in loco parentis at the time the blood specimens are drawn for purposes of subsection (1) of this section. If the infant's parent, guardian, or person in loco parentis accepts the offer of an additional blood specimen, the blood specimen shall be preserved in a manner that does not require special storage conditions or techniques, including, but not limited to, lamination. The attending physician or person making the offer shall explain to the parent, guardian, or person in loco parentis at the time the offer is made that the additional blood specimen can be used for future identification purposes and should be kept in a safe place. The attending physician or person making the offer may charge a fee that is not more than the actual cost of obtaining and preserving the additional blood specimen.

(7) The person responsible for causing the tests to be performed under subsection (2) of this section shall inform the parent or legal guardian of the infant of the tests and of the results of the tests and provide, upon any request for further information, at least a copy of the written materials prepared under subsection (5) of this section.

(8) Dietary and therapeutic management of the infant with phenylketonuria, primary hypothyroidism, biotinidase deficiency, galactosemia, hemoglobinopathies, MCAD 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.

(9) Except for acts of gross negligence or willful or wanton conduct, any physician, hospital or other birthing facility, laboratory, or other submitter making reports or notifications under sections 71-519 to 71-524 shall be immune from criminal or civil liability of any kind or character based on any statements contained in such reports or notifications.

Sec. 391. Section 71-520, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-520 The Department of Health and Human Services ~~Regulation and Licensure~~ 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 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.

Sec. 392. Section 71-521, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-521 The Department of Health and Human Services ~~Regulation and Licensure~~ shall prescribe the tests, the test methods and techniques, and such reports and reporting procedures as are necessary to implement sections 71-519 to 71-524.

Sec. 393. Section 71-522, Revised Statutes Cumulative Supplement, 2006, 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 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. The department shall also use reported data to evaluate the quality of the statewide system of newborn screening and develop procedures for quality assurance. Reported data in anonymous or statistical form may be made available by the department for purposes of research.

Sec. 394. Section 71-523, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-523 (1) The Department of Health and Human Services ~~Regulation and Licensure~~ 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~~ shall adopt and promulgate rules and regulations to implement sections 71-519 to 71-524.

(4) ~~The Department of Health and Human Services Regulation and Licensure~~ shall contract, following competitive bidding, with a single laboratory to perform tests, report results, set forth the fee the laboratory will charge for testing, and collect and submit fees pursuant to sections 71-519 to 71-524. The department shall require the contracting laboratory to: (a) Perform testing for all of the diseases pursuant to section 71-519 and in accordance with rules and regulations adopted and promulgated pursuant to this section, (b) maintain certification under the federal Clinical Laboratories Improvement Act of 1967, 42 U.S.C. 263a, as such act and section existed on July 20, 2002, (c) participate in appropriate quality assurance proficiency testing programs offered by the Centers for Disease Control and Prevention of the United States Department of Health and Human Services or other professional laboratory organization, as determined by the Department of Health and Human Services, Regulation and Licensure, (d) maintain sufficient contingency arrangements to ensure testing delays of no longer than twenty-four hours in the event of natural disaster or laboratory equipment failure, and (e) charge to the hospital, other birthing facility, or other submitter the fee provided in the contract for laboratory testing costs and the administration fee specified in subsection (5) of this section. The administration fee collected pursuant to such subsection shall be remitted to the Department of Health and Human Services, Finance and Support.

(5) ~~The Department of Health and Human Services Regulation and Licensure~~ shall set an administration fee of not more than ten dollars. The department may use the administration fee to pay for the costs of the central data registry, tracking, monitoring, referral, quality assurance, program operation, program development, program evaluation, and treatment services authorized under sections 71-519 to 71-523. The fee shall be collected by the contracting laboratory as provided in subdivision (4)(e) of this section.

(6) Fees collected for the department pursuant to sections 71-519 to 71-523 shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund.

Sec. 395. Section 71-524, Reissue Revised Statutes of Nebraska, is amended to read:

71-524 In addition to any other remedies which may be available by law, a civil proceeding to enforce section 71-519 may be brought in the district court of the county where the infant is domiciled or found. The attending physician, the hospital or other birthing facility, the Attorney General, or the county attorney of the county where the infant is domiciled or found may institute such proceedings as are necessary to enforce such section. It shall be the duty of the Attorney General or the county attorney to whom the ~~Director of Regulation and Licensure~~ Department of Health and Human Services reports a violation to cause appropriate proceedings to be initiated without delay. A hearing on any action brought pursuant to this section shall be held within seventy-two hours of the filing of such action, and a decision shall be rendered by the court within twenty-four hours of the close of the hearing.

Sec. 396. Section 71-529, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-529 ~~The Department of Health and Human Services Regulation and Licensure~~ may participate in the national efforts described in sections 71-527 and 71-528 and may develop a statewide immunization action plan which is comprehensive in scope and reflects contributions from a broad base of providers and consumers. In order to implement the statewide immunization action plan, the department may:

(1) Actively seek the participation and commitment of the public, health care professionals and facilities, the educational community, and community organizations in a comprehensive program to ensure that the state's children are appropriately immunized;

(2) Apply for and receive public and private awards to purchase vaccines and to administer a statewide comprehensive program;

(3) Provide immunization information and education to the public, parents, health care providers, and educators to establish and maintain a high

level of awareness and demand for immunization by parents;

(4) Assist parents, health care providers, and communities in developing systems, including demonstration and pilot projects, which emphasize well-child care and the use of private practitioners and which improve the availability of immunization and improve management of immunization delivery so as to ensure the adequacy of the vaccine delivery system;

(5) Evaluate the effectiveness of these statewide efforts, conduct ongoing measurement of children's immunization status, identify children at special risk for deficiencies in immunization, and report on the activities of the statewide immunization program annually to the Legislature and the citizens of Nebraska;

(6) Recognize persons who volunteer their efforts towards achieving the goal of providing immunization of the children of Nebraska and in meeting the Healthy People 2000 objective of series-complete immunization coverage for ninety percent or more of United States children by their second birthday;

(7) Establish a statewide program to immunize Nebraska children from birth up to six years of age against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, hepatitis B, and haemophilus influenzae type B. The program shall serve children who are not otherwise eligible for childhood immunization coverage with medicaid or other federal funds or are not covered by private third-party payment; and

(8) Contract to provide vaccine under the statewide program authorized under subdivision (7) of this section without cost to health care providers subject to the following conditions:

(a) In order to receive vaccine without cost, health care providers shall not charge for the cost of the vaccine. Health care providers may charge a fee for the administration of the vaccine but may not deny service because of the parent's or guardian's inability to pay such fee. Fees for administration of the vaccine shall be negotiated between the department and the health care provider, shall be uniform among participating providers, and shall be no more than the cost ceiling for the region in which Nebraska is included as set by the Secretary of the United States Department of Health and Human Services for the Vaccines for Children Program authorized by the Omnibus Budget Reconciliation Act of 1993;

(b) Health care providers shall administer vaccines according to the schedule recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention or by the American Academy of Pediatrics unless in the provider's medical judgment, subject to accepted medical practice, such compliance is medically inappropriate; and

(c) Health care providers shall maintain records on immunizations as prescribed by this section for inspection and audit by the Department of Health and Human Services ~~Regulation and Licensure~~ or the Auditor of Public Accounts, including responses by parents or guardians to simple screening questions related to payment coverage by public or private third-party payors, identification of the administration fee as separate from any other cost charged for other services provided at the same time the vaccination service is provided, and other information as determined by the department to be necessary to comply with subdivision (5) of this section. Such immunization records may also be used for information exchange as provided in sections 71-539 to 71-544.

Sec. 397. Section 71-532, Reissue Revised Statutes of Nebraska, is amended to read:

71-532 The Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt and promulgate rules and regulations which make the human immunodeficiency virus infection reportable by name in the same manner as communicable diseases under section 71-502.

Sec. 398. Section 71-541, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-541 A physician, an advanced practice registered nurse practicing under and in accordance with his or her applicable certification act, a physician assistant, a pharmacist, a licensed health care facility, a public immunization clinic, a local or district health department, and the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ may share immunization information which is not restricted under section 71-540. The unrestricted immunization information shared may include, but is not limited to, the patient's name, date of birth, dates and vaccine types administered, and any immunization information obtained from other sources.

Sec. 399. Section 71-543, Reissue Revised Statutes of Nebraska, is amended to read:

71-543 The Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ may adopt and promulgate rules and regulations to implement sections 71-539 to 71-544, including procedures and methods for access to and security of the immunization information.

Sec. 400. Section 71-601.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-601.01 For purposes of the Vital Statistics Act:

(1) Abstract of marriage means a certified document that summarizes the facts of marriage, including, but not limited to, the name of the bride and groom, the date of the marriage, the place of the marriage, and the name of the office filing the original marriage license. An abstract of marriage does not include signatures;

(2) Certificate means the record of a vital event;

(3) Certification means the process of recording, filing, amending, or preserving a certificate, which process may be by any means, including, but not limited to, microfilm, electronic, imaging, photographic, typewritten, or other means designated by the department; and

(4) Department means the Department of Health and Human Services, ~~Finance and Support.~~

Sec. 401. Section 71-602, Reissue Revised Statutes of Nebraska, is amended to read:

71-602 (1) ~~The Department of Health and Human Services Finance and Support~~ department shall adopt and promulgate rules and regulations prescribing all standard forms for registering with or reporting to the department and for certification to the public of any birth, abortion, marriage, annulment, dissolution of marriage, or death registered in Nebraska. Such forms shall (a) provide for the registration of vital events as accurately as possible, (b) secure information about the economic, educational, occupational, and sociological backgrounds of the individuals involved in the registered events and their parents as a basis for statistical research in order to reduce morbidity and mortality and improve the quality of life, (c) accomplish such duties in a manner which will be uniform with forms for reporting similar events which have been established by the United States Public Health Service to the extent such forms are consistent with state law, and (d) permit other deviations from such forms as will reduce the costs of gathering information, increase efficiency, or protect the health and safety of the people of Nebraska without jeopardizing such uniformity.

(2) All information designated by the department on all certificates as being for health data and statistical research shall be confidential and may be released only to the United States Public Health Service or its successor, government health agencies, or a researcher as approved by the department in accordance with its rules and regulations. The department may publish analyses of any information received on the forms for scientific and public health purposes in such a manner as to assure that the identity of any individual cannot be ascertained. The release of such information pursuant to this section shall not make otherwise confidential information a public record.

Sec. 402. Section 71-602.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-602.01 All information designated by the ~~Department of Health and Human Services Finance and Support~~ department on all certificates as being for health data and statistical research shall be confidential but may be released to the ~~Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure~~ department for research and statistical purposes. The ~~Department of Health and Human Services Finance and Support~~ department may release cost, health, and associated health risk information from medicaid records to the ~~Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure~~ department for research and statistical purposes. Release of information shall be pursuant to a written agreement between the Department of Health and Human Services Finance and Support and the Department of Health and Human Services and between the Department of Health and Human Services Finance and Support and the Department of Health and Human Services Regulation and Licensure. ~~Such agreement~~ release shall provide for protection of the security of the content of the information, including access limitations, storage of the information, destruction of the information, and use of the information. The release of such information pursuant to this section shall not make otherwise confidential information a public record.

Sec. 403. Section 71-604, Reissue Revised Statutes of Nebraska, is amended to read:

71-604 (1) A certificate for each live birth which occurs in the



State of Nebraska shall be filed on a standard Nebraska certificate form. Such certificate shall be filed with the ~~Department of Health and Human Services Finance and Support~~ department within five business days after the birth.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or his or her authorized designee shall obtain the personal data, prepare the certificate which shall include the name, title, and address of the attendant, certify that the child was born alive at the place and time and on the date stated either by standard procedure or by an approved electronic process, and file the certificate. The physician or other person in attendance shall provide the medical information required for the certificate within seventy-two hours after the birth.

(3) When a birth occurs outside an institution, the certificate of birth shall be prepared and filed by one of the following:

- (a) The physician in attendance at or immediately after the birth;
- (b) The father, the mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred; or
- (c) Any other person in attendance at or immediately after the birth.

Sec. 404. Section 71-604.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-604.01 Upon receipt of a notarized affidavit from the physician that performed sex reassignment surgery on an individual born in this state and a certified copy of an order of a court of competent jurisdiction changing the name of such person, the ~~Department of Health and Human Services Finance and Support~~ department shall prepare a new certificate of birth in the new name and sex of such person in substantially the same form as that used for other live births. The evidence from which the new certificate is prepared and the original certificate of birth shall be available for inspection only upon the order of a court of competent jurisdiction.

Sec. 405. Section 71-604.05, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-604.05 (1) The ~~Department of Health and Human Services Finance and Support~~ department shall not file (a) a certificate of live birth, (b) a certificate of delayed birth registration for a registrant who is 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 who is under twenty-five years of age 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, department~~ 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~~ department 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~~ department 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. 406. Section 71-605.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-605.01 Death certificates issued by or under the authority of the United States for persons who were residents of Nebraska at the time they entered the military or armed forces of the United States, and died while in the service of their country while outside the continental limits of the

United States may be recorded with the ~~Department of Health and Human Services Finance and Support~~ department.

Sec. 407. Section 71-605.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-605.02 The ~~Department of Health and Human Services Finance and Support~~ department shall preserve permanently and index all such certificates and shall charge and collect in advance the fee prescribed in section 71-612, to be paid by the applicant for each certified copy supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record, whether or not the record is found on file with the department. All fees so collected shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund as provided in section 71-612.

Sec. 408. Section 71-606, Reissue Revised Statutes of Nebraska, is amended to read:

71-606 A child born dead shall be registered as a fetal death on a certificate form furnished by the ~~Department of Health and Human Services Finance and Support~~ department. Such certificate shall not be required for a child which has not advanced to the twentieth week of gestation. The certificate shall be filed with the department by the funeral director and embalmer in charge of the funeral and shall include a statement of the cause of death made by a person holding a valid license as a physician who was in attendance. In the event of hospital disposition, as provided in section 71-20,121, the entire certificate shall be completed by the attending physician and subscribed to also by the hospital administrator or his or her designated representative. If the attendant is not a physician, the death shall be referred to the county attorney for certification. The same time limit for completion shall apply as for a regular death certificate.

Sec. 409. Section 71-608.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-608.01 Persons in any county containing a city of the metropolitan or primary class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established birth and death registration system shall be exempt from the requirements of direct filing of birth and death certificates required by sections 71-604, 71-605, and 71-606. The certificates for the births and deaths occurring in any such county shall be filed with the vital statistics office of the city-county or county health department within five business days of the date of the birth or death. The city-county or county health department shall forward the certificates to the ~~Department of Health and Human Services Finance and Support~~ department within ten business days of the date of the birth or death.

Sec. 410. Section 71-609, Reissue Revised Statutes of Nebraska, is amended to read:

71-609 Every retail dealer in caskets shall keep a record of sales, which record shall include the name and post office address of the purchaser and the name and date and place of death of the deceased. A report of sales or no sales shall be forwarded to the ~~Department of Health and Human Services Finance and Support~~ department on the first day of each month. This requirement shall not apply to persons selling caskets only to dealers or funeral directors and embalmers. Every seller of a casket at retail who does not have charge of the disposition of the body shall enclose within the casket a notice calling attention to the requirements of the law and a blank certificate of death.

Sec. 411. Section 71-610, Reissue Revised Statutes of Nebraska, is amended to read:

71-610 Maternity homes and lying-in hospitals, and places used as such, shall report to the ~~Department of Health and Human Services Finance and Support~~ department on the first day of each month the sex and date of birth of all children born in their respective institutions during the preceding month. The report shall also show the names and addresses of the parents and attending physicians.

Sec. 412. Section 71-611, Reissue Revised Statutes of Nebraska, is amended to read:

71-611 The ~~Department of Health and Human Services Finance and Support~~ department shall supply all necessary blanks, forms, and instructions pertaining to the recording of births and deaths to physicians, hospitals, and funeral directors and embalmers. Upon written request, the department may authorize a funeral director and embalmer licensed in Nebraska to use computer-generated death certificate forms on paper supplied by the department which is of the same quality and identical in form established in department regulations for death certificates which are not computer-generated.

Sec. 413. Section 71-612, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-612 (1) ~~The Director of Finance and Support, department,~~ as the State Registrar, ~~through the Department of Health and Human Services Finance and Support~~ shall preserve permanently and index all certificates received. The department shall supply to any applicant for any proper purpose, as defined by rules and regulations of the department, a certified copy of the record of any birth, death, marriage, annulment, or dissolution of marriage or an abstract of marriage. The department shall supply a copy of a public vital record for viewing purposes at its office upon an application signed by the applicant and upon proof of the identity of the applicant. The application may include the name, address, and telephone number of the applicant, purpose for viewing each record, and other information as may be prescribed by the department by rules and regulations to protect the integrity of vital records and prevent their fraudulent use. Except as provided in subsections (2), (3), (5), (6), and (7) of this section, the department shall be entitled to charge and collect in advance a fee of eleven dollars to be paid by the applicant for each certified copy or abstract of marriage supplied to the applicant or for any search made at the applicant's request for access to or a certified copy of any record or abstract of marriage, whether or not the record or abstract is found on file with the department.

(2) The department shall, free of charge, search for and furnish a certified copy of any record or abstract of marriage on file with the department upon the request of (a) the United States Department of Veterans Affairs or any lawful service organization empowered to represent veterans if the copy of the record or abstract of marriage is to be issued, for the welfare of any member or veteran of the armed forces of the United States or in the interests of any member of his or her family, in connection with a claim growing out of service in the armed forces of the nation or (b) the Military Department.

(3) ~~The Department of Health and Human Services Finance and Support department~~ may, free of charge, search for and furnish a certified copy of any record or abstract of marriage on file with the department when in the opinion of the ~~Director of Finance and Support department~~ it would be a hardship for the claimant of old age, survivors, or disability benefits under the federal Social Security Act to pay the fee provided in this section.

(4) A strict account shall be kept of all funds received by the department. Funds received pursuant to subsections (1), (5), (6), and (8) of this section shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used for the purpose of administering the laws relating to vital statistics and may be used to create a petty cash fund administered by the department to facilitate the payment of refunds to individuals who apply for copies or abstracts of records. The petty cash fund shall be subject to section 81-104.01, except that the amount in the petty cash fund shall not be less than twenty-five dollars nor more than one thousand dollars.

(5) The department shall, upon request, conduct a search of death certificates for stated individuals for the Nebraska Medical Association or any of its allied medical societies or any inhospital staff committee pursuant to sections 71-3401 to 71-3403. If such death certificate is found, the department shall provide a noncertified copy. The department shall charge a fee for each search or copy sufficient to cover its actual direct costs, except that the fee shall not exceed two dollars per individual search or copy requested.

(6) The department may permit use of data from vital records for statistical or research purposes under section 71-602 or disclose data from certificates or records to federal, state, county, or municipal agencies of government for use in administration of their official duties and charge and collect a fee that will recover the department's cost of production of the data. The department may provide access to public vital records for viewing purposes by electronic means, if available, under security provisions which shall assure the integrity and security of the records and data base and shall charge and collect a fee that shall recover the department's costs.

(7) In addition to the fees charged under subsection (1) of this section, the department shall charge and collect an additional fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for access to or a certified copy of any such record, whether or not the record is found on file with the department. Any county containing a city of the metropolitan class which has an established city-county or county health department pursuant to sections 71-1626 to 71-1636 which has an established system of registering births and deaths shall

charge and collect in advance a fee of one dollar for any certified copy of the record of any birth or for any search made at the applicant's request for such record, whether or not the record is found on file with the county. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(8) The department shall not charge other state agencies the fees authorized under subsections (1) and (7) of this section for automated review of any certificates or abstracts of marriage. The department shall charge and collect a fee from other state agencies for such automated review that will recover the department's cost.

Sec. 414. Section 71-614, Reissue Revised Statutes of Nebraska, is amended to read:

71-614 (1) On or before the fifth day of each month, the county clerk of each county shall return to the ~~Department of Health and Human Services Finance and Support~~ department upon suitable blank forms, to be provided by the department, a statement of all marriages recorded by him or her during the preceding calendar month. If no marriages were performed in the county during the preceding month, a card furnished by the department indicating such information shall be submitted on or before the fifth day of each month to the department. Upon neglect or refusal to make such returns, such county clerk shall, for each such neglect or refusal, forfeit and pay the sum of twenty-five dollars for the use of the proper county, to be collected as debts of like amount are now collectible.

(2) As soon as possible after completion of an amendment to a marriage license by the ~~Department of Health and Human Services Finance and Support~~, department, the department shall forward a noncertified copy of the marriage license reflecting the amendment to the county clerk of the county in which the license was filed. Upon receipt of the amended copy, the county clerk shall make the necessary changes on the marriage license on file in his or her office to reflect the amendment.

Sec. 415. Section 71-615, Reissue Revised Statutes of Nebraska, is amended to read:

71-615 On or before the fifth day of each month, the clerk of the district court of each county shall make and return to the ~~Department of Health and Human Services Finance and Support~~, department, upon suitable forms furnished by the department, a statement of each action for annulment or dissolution of marriage granted in the court of which he or she is clerk during the preceding calendar month. The information shall be furnished by the petitioner or his or her legal representative and presented to the clerk of the court with the petition. In all cases, the furnishing of the information to complete the record shall be a prerequisite to the granting of the final decree. If no annulments or dissolutions of marriage were granted in the county during the preceding month, a card furnished by the department indicating such information shall be submitted on or before the fifth day of each month to the department. Upon neglect or refusal to make such return, such clerk shall, for each neglect or refusal, forfeit and pay the sum of twenty-five dollars for the use of the county.

Sec. 416. Section 71-616, Reissue Revised Statutes of Nebraska, is amended to read:

71-616 The ~~Department of Health and Human Services Finance and Support~~ department shall preserve permanently and index all births, deaths, marriages, and divorces received, and shall tabulate statistics therefrom.

Sec. 417. Section 71-616.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-616.03 The ~~Department of Health and Human Services Finance and Support~~ department may accept for filing and issue certified copies of vital records generated from microfilm, imaging, electronic means, or any other medium as designated by the department.

Sec. 418. Section 71-616.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-616.04 To preserve vital records, the ~~Department of Health and Human Services Finance and Support~~ department may prepare typewritten, photographic, electronic, or other reproductions of certificates or reports of vital records. Such reproductions, when verified and approved by the department, shall be accepted as the original records, and the documents from which permanent reproductions have been made may be disposed of as provided by rules and regulations of the department.

Sec. 419. Section 71-617.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.02 A notarized application may be filed with the ~~Department of Health and Human Services Finance and Support~~ department for a delayed registration of birth of any person born in the State of Nebraska whose birth

is not registered within one year after the date of birth. If the birth occurred in the State of Nebraska at any time since the commencement in 1905 of mandatory registration under the laws of Nebraska, the applicant shall pay the statutory file search fee prescribed by section 71-612 to determine that such birth is not recorded. The certificate shall be registered based upon documentary evidence furnished to substantiate the alleged facts of birth. As used in the Delayed Birth Registration Act, unless the context otherwise requires, documentary evidence shall mean independent records each of which was created for a different purpose.

Sec. 420. Section 71-617.06, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.06 Independent supporting records shall include, but not be limited to, original records or certified or notarized copies of:

- (1) A recorded certificate of baptism performed under age four;
- (2) An insurance policy application personal history sheet;
- (3) A federal census record;
- (4) A school census record;
- (5) A military service record;
- (6) A family Bible record when proved beyond a reasonable doubt that the record was made before the child reached age four;
- (7) Other evidence on file in the ~~Department of Health and Human Services Finance and Support~~ department taken from other registrations;
- (8) A record at least five years old or established within seven years of the date of birth such as a physician's certificate or an affidavit taken from physician, hospital, nursing, or clinic records;
- (9) An affidavit from a parent or longtime acquaintance;
- (10) A printed notice of birth;
- (11) A record from a birthday or baby book;
- (12) A school record; or
- (13) A church record.

An affidavit shall include the full name of the person whose birth is being registered as well as the date and place of birth and the basis of the affiant's knowledge of these facts.

Sec. 421. Section 71-617.07, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.07 If an applicant for a certificate of delayed birth registration fails to submit the minimum documentation required for the delayed registration or if the ~~Department of Health and Human Services Finance and Support~~ department has reasonable cause to question the validity or adequacy of either the applicant's sworn statement or the documentary evidence due to conflicting evidence submitted and if the deficiencies are not corrected, the department shall not issue and register a delayed certificate of birth and shall advise the applicant of the reasons for such action. The department shall further advise the applicant of his or her right of appeal to the ~~Director of Finance and Support~~ department and then, if not satisfied, to the county court as provided in section 71-617.08.

Sec. 422. Section 71-617.08, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.08 (1) If a delayed certificate of birth is denied by the ~~Department of Health and Human Services Finance and Support and the Director of Finance and Support,~~ department, a petition signed and sworn to by the petitioner may be filed with the county court of Lancaster County, of the county of the petitioner's residence, or of the county in which the birth is claimed to have occurred.

(2) The petition shall be made on a form prescribed and furnished by the ~~Department of Health and Human Services Finance and Support~~ department and shall allege:

- (a) That the person for whom a delayed certificate of birth is sought was born in this state;
- (b) That no certificate of birth of such person can be found in the files or records of the ~~Department of Health and Human Services Finance and Support,~~ department;
- (c) That diligent efforts by the petitioner have failed to obtain evidence required by sections 71-617.05 and 71-617.06 that is considered acceptable by the ~~Department of Health and Human Services Finance and Support,~~ department;
- (d) That the ~~Department of Health and Human Services Finance and Support~~ department has refused to register a delayed certificate of birth; and
- (e) Such other allegations as may be required.

Sec. 423. Section 71-617.09, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.09 A statement of the ~~Director of Finance and Support~~

department indicating why a delayed certificate of birth was not issued and registered and all documentary evidence which was submitted to the Department of Health and Human Services Finance and Support department in support of such registration shall accompany a petition filed under section 71-617.08.

Sec. 424. Section 71-617.10, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.10 The court shall fix a time and place for a hearing upon a petition filed under section 71-617.08 and shall give the Department of Health and Human Services Finance and Support department ten calendar days' notice of such hearing. ~~The Director of Finance and Support or one of his or her authorized~~ Authorized representatives of the department may appear and testify in the proceeding.

Sec. 425. Section 71-617.11, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.11 If the court finds from the evidence presented that the person for whom a delayed certificate of birth is sought was born in this state, it shall make findings as to the place and date of birth, parentage, and such other findings as the case may require and shall issue an order on a form prescribed and furnished by the Department of Health and Human Services Finance and Support department to establish a certificate of birth. The order shall include the birth data to be registered, a description of the evidence presented, and the date of the court's action.

Sec. 426. Section 71-617.12, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.12 The clerk of the court shall forward any order made under section 71-617.11 to the Department of Health and Human Services Finance and Support department not later than the tenth day of the calendar month following the month in which it was entered. The order shall be registered by the department and shall constitute the certificate of birth.

Sec. 427. Section 71-617.13, Reissue Revised Statutes of Nebraska, is amended to read:

71-617.13 The Department of Health and Human Services Finance and Support department shall certify on a delayed registration of birth that no other record of the birth is on file with the department.

Sec. 428. Section 71-617.15, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-617.15 (1) The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612 when an application for a delayed birth certificate is filed. All such fees shall be remitted to the State Treasurer for credit to the Department of Health and Human Services Finance and Support Health and Human Services Cash Fund. The department shall collect an additional fee of one dollar when a delayed birth certificate is issued. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(2) Upon request and payment of the fees required by section 71-612, a certified copy of a delayed birth certificate shall be furnished by the ~~Director of Finance and Support.~~ department. All fees for a certified copy shall be handled as provided in section 71-612.

Sec. 429. Section 71-626, Reissue Revised Statutes of Nebraska, is amended to read:

71-626 (1) For each adoption of a Nebraska-born or foreign-born person decreed by any court of this state, the court shall require the preparation of a report of adoption on a form prescribed and furnished by the ~~Department of Health and Human Services Finance and Support.~~ department. The report shall (a) include the original name, date, and place of birth and the name of the parent or parents of such person; (b) provide information necessary to establish a new certificate of birth of the person adopted; (c) provide the name and address of the child placement agency, if any, which placed the child for adoption; and (d) identify the decree of adoption and be certified by the clerk of the court.

(2) Information in the possession of the petitioner necessary to prepare the report of adoption shall be furnished with the petition for adoption by each petitioner or his or her attorney. The social or welfare agency or other person concerned shall supply the court with such additional information in his or her possession as may be necessary to complete the report. The supplying of such information shall be a prerequisite to the issuance of a decree.

(3) Whenever an adoption decree is amended or set aside, the clerk of the court shall prepare a report thereof, which shall include such facts as are necessary to identify the original adoption report and the facts amended in the adoption decree as shall be necessary to properly amend the birth record.

(4) Not later than the tenth day after the decree has been entered, the clerk of such court shall forward the report to the ~~Department of Health and Human Services Finance and Support~~ department whenever an adoptive birth certificate is to be filed or has already been filed.

Sec. 430. Section 71-626.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-626.01 (1) The ~~Department of Health and Human Services Finance and Support~~ department shall establish a new certificate of birth for a person born in the State of Nebraska whenever it receives any of the following:

(a) A report of adoption as provided in section 71-626 on a form supplied by the ~~Department of Health and Human Services Finance and Support~~ department or a certified copy of the decree of adoption together with the information required in such report, except that a new certificate of birth shall not be established if so requested in writing by the court decreeing the adoption, the adoptive parents, or the adopted person; or

(b) A report of adoption or a certified copy of the decree of adoption entered in a court of competent jurisdiction of any other state or nation declaring adopted a person born in the State of Nebraska, together with the information necessary to identify the original certificate of birth and to establish the new certificate of birth, except that a new certificate of birth shall not be established when so requested by the court decreeing the adoption, the adoptive parents, or the adopted person.

(2) The new certificate of birth for a person born in the State of Nebraska shall be on the form in use at the time of its preparation and shall include the following items in addition to such other information as may be necessary to complete the form:

(a) The adoptive name of the person;

(b) The names and personal particulars of the adoptive parents;

(c) The date and place of birth as transcribed from the original certificate;

(d) The name of the attendant, printed or typed;

(e) The same birth number as was assigned to the original certificate; and

(f) The original filing date.

The data necessary to locate the existing certificate and the data necessary to complete the new certificate shall be submitted to the ~~Department of Health and Human Services Finance and Support,~~ department.

(3) When an adoptive certificate of birth is established, the actual place of birth and date of birth shall be shown. It shall be substituted for the original certificate of birth. Thereafter, the original certificate and the evidence of adoption shall not be subject to inspection except (a) upon order of a court of competent jurisdiction, (b) as provided in sections 43-138 to 43-140, (c) as provided in sections 43-146.11 to 43-146.13, or (d) as provided by rules and regulations of the ~~Department of Health and Human Services Finance and Support,~~ department. Upon receipt of notice that an adoption has been set aside, the original certificate of birth shall be restored to its place in the files and the new certificate and evidence shall not be subject to inspection except upon order of a court of competent jurisdiction.

(4) Whenever a new certificate of birth is established by the ~~Department of Health and Human Services Finance and Support,~~ department, all copies of the original certificate of birth in the custody of any custodian of permanent local records in this state shall be sealed from inspection.

(5) The ~~Department of Health and Human Services Finance and Support~~ department may adopt and promulgate such rules and regulations as are necessary and proper to assist it in the implementation and administration of section 71-626 and this section.

Sec. 431. Section 71-627, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-627 (1) The certificate of birth of adopted children shall be filed as other certificates of birth. The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612 for each certificate filed. All such fees shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund. The department shall charge and collect an additional fee of one dollar for each certificate issued. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

(2) Upon request and payment of the fees required by section 71-612, a certified copy of an adoptive birth certificate shall be furnished by the ~~Director of Finance and Support,~~ department. All fees for a certified copy shall be handled as provided in section 71-612.

Sec. 432. Section 71-627.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-627.01 Whenever a decree of adoption is entered in any court of competent jurisdiction in the State of Nebraska, as to a child born in another state, the judge of the court in which such decree is entered shall, on forms to be furnished by the ~~Director of Finance and Support,~~ department, notify the agency having authority to issue adoptive birth certificates in the state in which such child was born for the purpose of securing the issuance of an adoptive birth certificate from the state of birth.

Sec. 433. Section 71-627.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-627.02 Upon receipt of a Report of Adoption or a certified copy of a decree of adoption issued by any court of competent jurisdiction in the State of Nebraska as to any foreign-born person, the ~~Director of Finance and Support~~ department shall prepare a birth certificate in the new name of the adopted person. The birth certificate shall show specifically (1) the new name of the adopted person, (2) the date of birth and sex of the adopted person, (3) statistical information concerning the adoptive parents in place of the natural parents, and (4) the true or probable place of birth including the city or town and country.

Sec. 434. Section 71-628, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-628 In case of the legitimation of any child born in Nebraska by the subsequent marriage of such child's parents as provided in section 43-1406, the department, upon the receipt of a certified copy of the marriage certificate or abstract of marriage of the parents and a statement of the parents acknowledging paternity, shall prepare a new certificate of birth in the new name of the child so legitimated, in substantially the same form as that used for other live births. The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612. All such fees shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund. The department shall charge and collect an additional fee of one dollar for each new certificate of birth filed. All amounts collected from such additional fee shall be remitted to the State Treasurer for credit to the Nebraska Child Abuse Prevention Fund.

Sec. 435. Section 71-629, Reissue Revised Statutes of Nebraska, is amended to read:

71-629 A certified copy or copies of the certificate of birth of any such legitimized child may be furnished upon request by the ~~Director of Finance and Support,~~ department, but the evidence upon which the new certificate is made and the original certificate of birth shall be available for inspection only upon the order of a court of competent jurisdiction.

Sec. 436. Section 71-630, Reissue Revised Statutes of Nebraska, is amended to read:

71-630 (1) A birth or death certificate filed with the ~~Department of Health and Human Services Finance and Support~~ department may be amended only in accordance with this section and sections 71-635 to 71-644 and rules and regulations adopted pursuant thereto by the department as necessary and proper to protect the integrity and accuracy of records of vital statistics.

(2) A certificate that is amended under this section shall have a properly dated reference placed on the face of the certificate and state that it is amended, except as provided in subsection (4) of this section.

(3) Upon receipt of a certified copy of a court order changing the name of a person born in this state and upon request of such person or his or her parent, guardian, or legal representative, the ~~Department of Health and Human Services Finance and Support~~ department shall amend the certificate of birth to reflect the change in name.

(4) Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents, the ~~Department of Health and Human Services Finance and Support~~ department shall amend the certificate of birth to show such paternity if paternity is not shown on the birth certificate. Such certificate shall not be marked amended.

Sec. 437. Section 71-634, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-634 The department shall charge and collect the same fee as prescribed in subsection (1) of section 71-612 for each proceeding under sections 71-630 and 71-635 to 71-644. All fees so collected shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund. The department shall collect the fees required by section 71-612 for a certified copy of the amended record. All fees for a certified copy shall be handled as



provided in section 71-612.

If a certificate is amended pursuant to sections 71-630 and 71-635 to 71-644 as the result of an error committed by the department in the issuance of such certificate, the department may waive any fee required under this section.

Sec. 438. Section 71-636, Reissue Revised Statutes of Nebraska, is amended to read:

71-636 Amendment of obvious errors, of transposition of letters in words of common knowledge, or of omissions on birth certificates may be made by the ~~Department of Health and Human Services Finance and Support~~ department within the first year after the date of the birth, either upon its own observation, upon query, or upon request of a person with a direct and tangible interest in the certificate. When such additions or minor amendments are made by the department, a notation as to the source of the information together with the date the change was made and the initials of the authorized agent making the change shall be made on the reverse side of the certificate in such a way as not to become a part of the certificate. The certificate shall not be marked amended.

Sec. 439. Section 71-639, Reissue Revised Statutes of Nebraska, is amended to read:

71-639 The ~~Department of Health and Human Services Finance and Support~~ department shall evaluate all evidence submitted for amendments to vital records and when it finds reason to question its validity or adequacy it may reject the amendment and shall advise the applicant of the reasons for this action.

Sec. 440. Section 71-640.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-640.02 The ~~Department of Health and Human Services Finance and Support~~ department shall enter on the birth certificate of any child born out of wedlock the name of the father of the child upon receipt of (1) a certified copy of a court order showing that paternity has been established or a statement in writing by the father that he is the father of the child and (2) the written request of (a) the parent having legal custody of the child or (b) the guardian or agency having legal custody of the child. The surname of the child shall be determined in accordance with section 71-640.03.

Sec. 441. Section 71-640.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-640.03 (1) In any case in which paternity of a child is determined by a court of competent jurisdiction, the surname of the child may be entered on the record the same as the surname of the father.

(2) The surname of the child shall be the parents' prerogative, except that the ~~Department of Health and Human Services Finance and Support~~ department shall not accept a birth certificate with a child's surname that implies any obscene or objectionable words or abbreviations.

Sec. 442. Section 71-641, Reissue Revised Statutes of Nebraska, is amended to read:

71-641 (1) Until the registrant's seventh birthday, the given name, for a child whose birth was recorded without a given name, may be added based upon an affidavit signed by (a) both parents, (b) the mother in the case of a child born out of wedlock or the death or incapacity of the father, (c) the father in the case of the death or incapacity of the mother, or (d) the guardian or agency having legal custody of the registrant in the case of the death or incapacity of both parents. A certificate amended in this manner prior to the first birthday shall not be marked amended.

(2) After the seventh birthday, one or more items of documentary evidence must be submitted to substantiate the name being added.

(3) For a legal change of name, a certified copy of the court order changing the name must be presented to the ~~Department of Health and Human Services Finance and Support~~ department along with data to identify the birth certificate and a request that it be amended to show the new name.

Sec. 443. Section 71-644, Reissue Revised Statutes of Nebraska, is amended to read:

71-644 A certificate or report that is amended under sections 71-635 to 71-644 shall indicate that it has been amended as provided by rules and regulations of the ~~Department of Health and Human Services Finance and Support~~ department. A record shall be maintained which identifies the evidence upon which the amendment was based, the date of the amendment, and the identity of the person making the amendment.

Sec. 444. Section 71-645, Reissue Revised Statutes of Nebraska, is amended to read:

71-645 It is hereby found that the occurrence of malformation or inherited disease at the time of birth is a tragedy for the child, the

family, and the community, and a matter of vital concern to the public health. In order to provide for the protection and promotion of the health of the citizens of the state, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall have the responsibility for the implementation and development of scientific investigations and research concerning the causes, methods of prevention, treatment, and cure of birth defects.

Sec. 445. Section 71-646, Reissue Revised Statutes of Nebraska, is amended to read:

71-646 The ~~Director of Regulation and Licensure~~ department shall establish within the ~~Department of Health and Human Services Regulation and Licensure~~ a birth defects registry for the purpose of initiating and conducting investigations of the causes, mortality, methods of prevention, treatment, and cure of birth defects and allied diseases. Any information released from the registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

Sec. 446. Section 71-647, Reissue Revised Statutes of Nebraska, is amended to read:

71-647 (1) The ~~Department of Health and Human Services Regulation and Licensure~~ department shall have and may exercise the following powers and duties:

(a) To conduct scientific investigations and surveys of the causes, mortality, methods of prevention, treatment, and cure of birth defects;

(b) To publish at least annually the results of such investigations and surveys for the benefit of the public health and to annually collate such publications for distribution to scientific organizations and qualified scientists and physicians;

(c) To carry on programs of professional education and training of medical students, physicians, nurses, scientists, and technicians in the causes, methods of prevention, treatment, and cure of birth defects;

(d) To conduct and support clinical counseling services in medical facilities; and

(e) To secure necessary scientific, educational, training, technical, administrative, and operational personnel and services including laboratory facilities by contract or otherwise from public or private entities in order to carry out the purposes of this section.

(2) Any information released from the birth defects registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

Sec. 447. Section 71-648, Reissue Revised Statutes of Nebraska, is amended to read:

71-648 Birth defects and allied diseases shall be reported by physicians, hospitals, and persons in attendance at births in the manner and on such forms as may be prescribed by the ~~Department of Health and Human Services Regulation and Licensure~~ department. Such reports may be included in the monthly report to the department on births as required by section 71-610. Such reports shall be forwarded to the department no later than the tenth day of the succeeding month after the birth. When objection is made by either parent to furnishing information relating to the medical and health condition of a live-born child because of conflict with religion, such information shall not be required to be entered as provided in this section.

Sec. 448. Section 71-701, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-701 The Women's Health Initiative of Nebraska is created within the Department of Health and Human Services, ~~Regulation and Licensure~~. The Women's Health Initiative of Nebraska shall strive to improve the health of women in Nebraska by fostering the development of a comprehensive system of coordinated services, policy development, advocacy, and education. The initiative shall:

(1) Serve as a clearinghouse for information regarding women's health issues, including pregnancy, breast and cervical cancers, acquired immunodeficiency syndrome, osteoporosis, menopause, heart disease, smoking, and mental health issues as well as other issues that impact women's health, including substance abuse, domestic violence, teenage pregnancy, sexual assault, adequacy of health insurance, access to primary and preventative health care, and rural and ethnic disparities in health outcomes;

(2) Perform strategic planning within the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure~~, and the Department of Health and Human Services Finance and Support to develop department-wide plans for implementation of goals and objectives for women's health;

(3) Conduct department-wide policy analysis on specific issues related to women's health;

(4) Coordinate pilot projects and planning projects funded by the state that are related to women's health;

(5) Communicate and disseminate information and perform a liaison function within the ~~departments~~ department and to providers of health, social, educational, and support services to women;

(6) Provide technical assistance to communities, other public entities, and private entities for initiatives in women's health, including, but not limited to, community health assessment and strategic planning and identification of sources of funding and assistance with writing of grants; and

(7) Encourage innovative responses by public and private entities that are attempting to address women's health issues.

Sec. 449. Section 71-702, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-702 (1) The Women's Health Initiative Advisory Council is created and shall consist of not more than thirty members, at least three-fourths of whom are women. At least one member shall be appointed from the following disciplines: (a) An obstetrician/gynecologist; (b) a nurse practitioner or physician's assistant from a rural community; (c) a geriatrics physician or nurse; (d) a pediatrician; (e) a community public health representative from each congressional district; (f) a health educator; (g) an insurance industry representative; (h) a mental health professional; (i) a representative from a statewide health volunteer agency; (j) a private health care industry representative; (k) an epidemiologist or a health statistician; (l) a foundation representative; and (m) a woman who is a health care consumer from each of the following age categories: Eighteen to thirty; thirty-one to forty; forty-one to sixty-five; and sixty-six and older. The membership shall also include a representative of the University of Nebraska Medical Center, a representative from Creighton University Medical Center, the executive director of the Nebraska Commission on the Status of Women or his or her designee, the chief medical officer if one is appointed under section ~~81-3201~~, 6 of this act, and the Title V Director of the Department of Health and Human Services.

(2) The Governor shall appoint advisory council members and shall consider and attempt to balance representation based on political party affiliation, race, and different geographical areas of Nebraska when making appointments. The Governor shall appoint the first chairperson and vice-chairperson of the advisory council. There shall be two ex officio, nonvoting members from the Legislature, one of which shall be the chairperson of the Health and Human Services Committee.

(3) The terms of the initial members shall be as follows: One-third shall serve for one-year terms, one-third shall serve for two-year terms, and one-third shall serve for three-year terms including the members designated chairperson and vice-chairperson. Thereafter members shall serve for three-year terms. Members may not serve more than two consecutive three-year terms.

(4) The Governor shall make the appointments within three months after July 13, 2000.

(5) The advisory council shall meet quarterly the first two years. After this time the advisory council shall meet at least every six months or upon the call of the chairperson or a majority of the voting members. A quorum shall be one-half of the voting members.

(6) The members of the advisory council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177 and pursuant to policies of the advisory council. Funds for reimbursement for expenses shall be from the Women's Health Initiative Fund.

(7) The advisory council shall advise the Women's Health Initiative of Nebraska in carrying out its duties under section 71-701 and may solicit private funds to support the initiative.

(8) The advisory council terminates on December 31, 2009.

Sec. 450. Section 71-703, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-703 The ~~Director of Regulation and Licensure~~ Department of Health and Human Services will determine how the ~~Department of Health and Human Services Regulation and Licensure~~ department will provide personnel to carry out the Women's Health Initiative of Nebraska. The ~~Director of Regulation and Licensure~~ department shall employ personnel, including an executive director, necessary to carry out the powers and duties of the initiative. The Governor's Policy Research Office, the ~~Department of Health and Human Services Finance and Support~~, the ~~Department of Health and Human Services Regulation and Licensure~~, the ~~Department of Health and Human Services~~, department, and other state agencies as necessary may provide administrative and technical support

under the direct supervision of the Governor. The initiative may secure cooperation and assistance of other appropriate government and private-sector entities for women's health issues, programs, and educational materials.

Sec. 451. Section 71-705, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-705 The Women's Health Initiative Fund is created. The fund shall consist of money received as gifts or grants or collected as fees or charges from any federal, state, public, or private source. Money in the fund shall be used to reimburse the expenses of the Women's Health Initiative of Nebraska and expenses of members of the Women's Health Initiative Advisory Council. Nothing in sections 71-701 to 71-707 requires the Women's Health Initiative of Nebraska to accept any private donations that are not in keeping with the goals and objectives set forth by the initiative and the Department of Health and Human Services. ~~Regulation and Licensure.~~ No funds expended or received by or through the initiative shall pay for abortion referral or abortion services. 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. 452. Section 71-706, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-706 The Department of Health and Human Services ~~Regulation and Licensure~~ shall have all powers necessary to implement the purposes and intent of sections 71-701 to 71-707, including applying for, receiving, and administering federal and other public and private funds credited to the Women's Health Initiative Fund. Any funds obtained for the Women's Health Initiative of Nebraska shall be remitted to the State Treasurer for credit to the Women's Health Initiative Fund.

Sec. 453. Section 71-707, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-707 The Department of Health and Human Services ~~Regulation and Licensure~~ shall issue an annual report to the Governor and the Legislature on September 1 for the preceding fiscal year's activities of the Women's Health Initiative of Nebraska. The report shall include progress reports on any programs, activities, or educational promotions that were undertaken by the initiative. The report shall also include a status report on women's health in Nebraska and any results achieved by the initiative.

Sec. 454. Section 71-804, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-804 For purposes of the Nebraska Behavioral Health Services Act:

- ~~(1) Administrator means the administrator of the division;~~
- ~~(2) (1) Behavioral health disorder means mental illness or alcoholism, drug abuse, problem gambling, or other addictive disorder;~~
- ~~(3) (2) Behavioral health region means a behavioral health region established in section 71-807;~~
- ~~(4) (3) Behavioral health services means services, including, but not limited to, consumer-provided services, support services, inpatient and outpatient services, and residential and nonresidential services, provided for the prevention, diagnosis, and treatment of behavioral health disorders and the rehabilitation and recovery of persons with such disorders;~~
- ~~(5) (4) Community-based behavioral health services or community-based services means behavioral health services that are not provided at a regional center;~~
- ~~(6) (5) Department means the Department of Health and Human Services;~~
- ~~(7) (6) Director means the Director of Behavioral Health; Health and Human Services;~~
- ~~(8) (7) Division means the Division of Behavioral Health Services of the department;~~
- ~~(9) (8) Medical assistance program means the program established pursuant to the Medical Assistance Act;~~
- ~~(10) Nebraska Health and Human Services System means the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support;~~
- ~~(11) Policy Cabinet means the Policy Cabinet of the Nebraska Health and Human Services System established in section 81-3009;~~
- ~~(12) (9) Public behavioral health system means the statewide array of behavioral health services for children and adults provided by the public sector or private sector and supported in whole or in part with funding received and administered by the Nebraska Health and Human Services System, department, including behavioral health services provided under the medical assistance program;~~

~~(13)~~ (10) Regional center means one of the state hospitals for the mentally ill designated in section 83-305; and

~~(14)~~ (11) Regional center behavioral health services or regional center services means behavioral health services provided at a regional center.

Sec. 455. Section 71-805, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-805 ~~(1)~~ The Division of Behavioral Health Services is established within the department. The division shall establish and maintain a separate budget and shall separately account for all revenue and expenditures.

~~(2)~~ The administrator of the division shall be appointed by the Governor and confirmed by a majority of the members of the Legislature. The administrator shall report to the director and shall be responsible for the administration and management of the division. (1) The director shall appoint a chief clinical officer and a program administrator for consumer affairs for the division. The chief clinical officer shall be a board-certified psychiatrist and shall serve as the medical director for the division and all facilities and programs operated by the division. The program administrator for consumer affairs shall be a consumer or former consumer of behavioral health services and shall have specialized knowledge, experience, or expertise relating to consumer-directed behavioral health services, behavioral health delivery systems, and advocacy on behalf of consumers of behavioral health services and their families. The chief clinical officer and the program administrator for consumer affairs shall report to the ~~administrator of the division.~~ director. The Governor and the director shall conduct a search for qualified candidates and shall solicit and consider recommendations from interested parties for such positions prior to making such appointments.

~~(3)~~ (2) The ~~administrator of the division~~ director shall establish and maintain an office of consumer affairs within the division. The program administrator for consumer affairs shall be responsible for the administration and management of the office.

Sec. 456. Section 71-806, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-806 (1) The division shall act as the chief behavioral health authority for the State of Nebraska and shall direct the administration and coordination of the public behavioral health system, including, but not limited to: (a) Administration and management of the division, regional centers, and any other facilities and programs operated by the division; (b) integration and coordination of the public behavioral health system; (c) comprehensive statewide planning for the provision of an appropriate array of community-based behavioral health services and continuum of care; (d) coordination and oversight of regional behavioral health authorities, including approval of regional budgets and audits of regional behavioral health authorities; (e) development and management of data and information systems; (f) prioritization and approval of all expenditures of funds received and administered by the division, including the establishment of rates to be paid and reimbursement methodologies for behavioral health services and fees to be paid by consumers of such services; (g) cooperation with the ~~Department of Health and Human Services Regulation and Licensure~~ department in the licensure and regulation of behavioral health professionals, programs, and facilities; (h) cooperation with the ~~Department of Health and Human Services Finance and Support~~ department in the provision of behavioral health services under the medical assistance program; (i) audits of behavioral health programs and services; and (j) promotion of activities in research and education to improve the quality of behavioral health services, recruitment and retention of behavioral health professionals, and access to behavioral health programs and services.

(2) The department shall adopt and promulgate rules and regulations to carry out the Nebraska Behavioral Health Services Act.

Sec. 457. Section 71-809, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-809 (1) Each regional behavioral health authority shall be responsible for the development and coordination of publicly funded behavioral health services within the behavioral health region pursuant to rules and regulations adopted and promulgated by the department, including, but not limited to, (a) administration and management of the regional behavioral health authority, (b) integration and coordination of the public behavioral health system within the behavioral health region, (c) comprehensive planning for the provision of an appropriate array of community-based behavioral health services and continuum of care for the region, (d) submission for approval by the division of an annual budget and a proposed plan for the funding and administration of publicly funded behavioral health services within the

region, (e) submission of annual reports and other reports as required by the division, (f) initiation and oversight of contracts for the provision of publicly funded behavioral health services, and (g) coordination with the division in conducting audits of publicly funded behavioral health programs and services.

(2) Except for services being provided by a regional behavioral health authority on July 1, 2004, under applicable state law in effect prior to such date, no regional behavioral health authority shall provide behavioral health services funded in whole or in part with revenue received and administered by the division under the Nebraska Behavioral Health Services Act unless:

(a) There has been a public competitive bidding process for such services;

(b) There are no qualified and willing providers to provide such services; and

(c) The regional behavioral health authority receives written authorization from the ~~administrator~~ director and enters into a contract with the division to provide such services.

(3) Each regional behavioral health authority shall comply with all applicable rules and regulations of the department relating to the provision of behavioral health services by such authority, including, but not limited to, rules and regulations which (a) establish definitions of conflicts of interest for regional behavioral health authorities and procedures in the event such conflicts arise, (b) establish uniform and equitable public bidding procedures for such services, and (c) require each regional behavioral health authority to establish and maintain a separate budget and separately account for all revenue and expenditures for the provision of such services.

Sec. 458. Section 71-811, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-811 The division shall coordinate the integration and management of all funds appropriated by the Legislature or otherwise received by the ~~Nebraska Health and Human Services System~~ department from any other public or private source and ~~designated by the Policy Cabinet~~ for the provision of behavioral health services to ensure the statewide availability of an appropriate array of community-based behavioral health services and continuum of care and the allocation of such funds to support the consumer and his or her plan of treatment.

Sec. 459. Section 71-812, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-812 (1) The Behavioral Health Services Fund is created. The fund shall be administered by the division and shall contain cash funds appropriated by the Legislature or otherwise received by the ~~Nebraska Health and Human Services System~~ department for the provision of behavioral health services from any other public or private source and directed by ~~the Policy Cabinet~~ ~~or~~ the Legislature for credit to the fund.

(2) The fund shall be used to encourage and facilitate the statewide development and provision of community-based behavioral health services, including, but not limited to, (a) the provision of grants, loans, and other assistance for such purpose and (b) reimbursement to providers of such services.

(3)(a) Money transferred to the fund under section 76-903 shall be used for housing-related assistance for very low-income adults with serious mental illness, except that if the division determines that all housing-related assistance obligations under this subsection have been fully satisfied, the division may distribute any excess, up to twenty percent of such money, to regional behavioral health authorities for acquisition or rehabilitation of housing to assist such persons. The division shall manage and distribute such funds based upon a formula established by the division, in consultation with regional behavioral health authorities and the ~~Department of Health and Human Services Finance and Support,~~ department, in a manner consistent with and reasonably calculated to promote the purposes of the public behavioral health system enumerated in section 71-803. The division shall contract with each regional behavioral health authority for the provision of such assistance. Each regional behavioral health authority may contract with qualifying public, private, or nonprofit entities for the provision of such assistance.

(b) For purposes of this subsection:

(i) Adult with serious mental illness means a person eighteen years of age or older who has, or at any time during the immediately preceding twelve months has had, a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria identified in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders

and which has resulted in functional impairment that substantially interferes with or limits one or more major life functions. Serious mental illness does not include DSM V codes, substance abuse disorders, or developmental disabilities unless such conditions exist concurrently with a diagnosable serious mental illness;

(ii) Housing-related assistance includes rental payments, utility payments, security and utility deposits, and other related costs and payments; and

(iii) Very low-income means a household income of fifty percent or less of the applicable median family income estimate as established by the United States Department of Housing and Urban Development.

(4) 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. 460. Section 71-814, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-814 (1) The State Advisory Committee on Mental Health Services is created. Members of the committee shall have a demonstrated interest and commitment and specialized knowledge, experience, or expertise relating to the provision of mental health services in the State of Nebraska. The committee shall consist of twenty-three members appointed by the Governor as follows: (a) One regional governing board member, (b) one regional administrator, (c) twelve consumers of behavioral health services or their family members, (d) two providers of behavioral health services, (e) two representatives from the State Department of Education, including one representative from the Division of Vocational Rehabilitation of the State Department of Education, (f) three representatives from the Nebraska Department of Health and Human Services System representing mental health, social services, and medicaid, (g) one representative from the Nebraska Commission on Law Enforcement and Criminal Justice, and (h) one representative from the Housing Office of the Community and Rural Development Division of the Department of Economic Development.

(2) The committee shall be responsible to the division and shall (a) serve as the state's mental health planning council as required by Public Law 102-321, (b) conduct regular meetings, (c) provide advice and assistance to the division relating to the provision of mental health services in the State of Nebraska, including, but not limited to, the development, implementation, provision, and funding of organized peer support services, (d) promote the interests of consumers and their families, including, but not limited to, their inclusion and involvement in all aspects of services design, planning, implementation, provision, education, evaluation, and research, (e) provide reports as requested by the division, and (f) engage in such other activities as directed or authorized by the division.

Sec. 461. Section 71-916, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-916 (1) The Department of Health and Human Services shall provide appropriate training to members and alternate members of each mental health board and shall consult with consumer and family advocacy groups in the development and presentation of such training. Members and alternate members shall be reimbursed for any actual and necessary expenses incurred in attending such training in a manner and amount determined by the presiding judge of the district court. No person shall remain on a mental health board or be eligible for appointment or reappointment as a member or alternate member of such board unless he or she has attended and satisfactorily completed such training pursuant to rules and regulations adopted and promulgated by the department.

(2) The ~~Director~~ of Health and Human Services department shall provide the mental health boards with blanks for warrants, certificates, and other forms and printed copies of applicable rules and regulations of the department that will enable the boards to carry out their powers and duties under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act.

Sec. 462. Section 71-919, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-919 (1) A law enforcement officer who has probable cause to believe that a person is mentally ill and dangerous or a dangerous sex offender and that the harm described in section 71-908 or subdivision (1) of section 83-174.01 is likely to occur before mental health board proceedings under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act may be initiated to obtain custody of the person may take such person into emergency protective custody, cause him or her to be taken into emergency protective custody, or continue his or her custody if he or she is already in custody. Such person shall be admitted to an appropriate and available medical

facility, jail, or Department of Correctional Services facility as provided in subsection (2) of this section. Each county shall make arrangements with appropriate facilities inside or outside the county for such purpose and shall pay the cost of the emergency protective custody of persons from such county in such facilities. A mental health professional who has probable cause to believe that a person is mentally ill and dangerous or a dangerous sex offender may cause such person to be taken into custody and shall have a limited privilege to hold such person until a law enforcement officer or other authorized person arrives to take custody of such person.

(2) (a) A person taken into emergency protective custody under this section shall be admitted to an appropriate and available medical facility unless such person has a prior conviction for a sex offense listed in section 29-4003.

(b) A person taken into emergency protective custody under this section who has a prior conviction for a sex offense listed in section 29-4003 shall be admitted to a jail or Department of Correctional Services facility unless a medical or psychiatric emergency exists for which treatment at a medical facility is required. The person in emergency protective custody shall remain at the medical facility until the medical or psychiatric emergency has passed and it is safe to transport such person, at which time the person shall be transferred to an available jail or Department of Correctional Services facility.

(3) Upon admission to a facility of a person taken into emergency protective custody by a law enforcement officer under this section, such officer shall execute a written certificate prescribed and provided by the ~~Director~~ Department of Health and Human Services. The certificate shall allege the officer's belief that the person in custody is mentally ill and dangerous or a dangerous sex offender and shall contain a summary of the person's behavior supporting such allegations. A copy of such certificate shall be immediately forwarded to the county attorney.

(4) The administrator of the facility shall have such person evaluated by a mental health professional as soon as reasonably possible but not later than thirty-six hours after admission. The mental health professional shall not be the mental health professional who causes such person to be taken into custody under this section and shall not be a member or alternate member of the mental health board that will preside over any hearing under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act with respect to such person. A person shall be released from emergency protective custody after completion of such evaluation unless the mental health professional determines, in his or her clinical opinion, that such person is mentally ill and dangerous or a dangerous sex offender.

Sec. 463. Section 71-961, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-961 (1) All records kept on any subject shall remain confidential except as otherwise provided by law. Such records shall be accessible to (a) the subject, except as otherwise provided in subsection (2) of this section, (b) the subject's legal counsel, (c) the subject's guardian or conservator, if any, (d) the mental health board having jurisdiction over the subject, (e) persons authorized by an order of a judge or court, (f) persons authorized by written permission of the subject, (g) agents or employees of the Department of Health and Human Services ~~Regulation and Licensure~~ upon delivery of a subpoena from the department in connection with a licensing or licensure investigation by the department, (h) individuals authorized to receive notice of the release of a sex offender pursuant to section 83-174, (i) the Nebraska State Patrol or the ~~Department of Health and Human Services~~ department pursuant to section 69-2409.01, or (j) the Office of Parole Administration if the subject meets the requirements for lifetime community supervision pursuant to section 83-174.03.

(2) Upon application by the county attorney or by the administrator of the treatment facility where the subject is in custody and upon a showing of good cause therefor, a judge of the district court of the county where the mental health board proceedings were held or of the county where the treatment facility is located may order that the records not be made available to the subject if, in the judgment of the court, the availability of such records to the subject will adversely affect his or her mental illness or personality disorder and the treatment thereof.

(3) When a subject is absent without authorization from a treatment facility or program described in section 71-939 or 71-1223 and is considered to be dangerous to others, the subject's name and description and a statement that the subject is believed to be considered dangerous to others may be disclosed in order to aid in the subject's apprehension and to warn the public of such danger.



Sec. 464. Section 71-1001, Reissue Revised Statutes of Nebraska, is amended to read:

71-1001 The heads of the anatomy departments of the medical schools and colleges of this state, one professor of anatomy appointed by the head of the anatomy department from each medical school or college of this state, one professor of anatomy appointed from each dental school or college of this state, and one layperson appointed by the Department of Health and Human Services ~~Regulation and Licensure~~ shall constitute the State Anatomical Board of the State of Nebraska for the distribution, delivery, and use of certain dead human bodies, described in section 71-1002, to and among such schools, colleges, and persons as are entitled thereto under the provisions of such section. The board shall have power to establish rules and regulations for its government and for the collection, storage, and distribution of dead human bodies for anatomical purposes. It shall have power to appoint and remove its officers and agents. It shall keep minutes of its meetings. It shall cause a record to be kept of all of its transactions, of bodies received and distributed by it, and of the school, college, or person receiving every such body, and its records shall be open at all times to the inspection of each member of the board and to every county attorney within this state.

Sec. 465. Section 71-1301, Reissue Revised Statutes of Nebraska, is amended to read:

71-1301 For purposes of sections 71-1301 to 71-1306 and 71-1326 to 71-1354, unless the context otherwise requires:

(1) Accredited school of mortuary science means a school of the same type as those rated Class A by the Conference of Funeral Service Examining Boards of the United States, Inc., approved by the department upon recommendation of the board;

(2) Apprentice means a person registered with the department as an apprentice who is completing a twelve-month apprenticeship under the supervision of a licensed funeral director and embalmer practicing in the State of Nebraska. The licensed funeral director and embalmer is responsible for all funeral assists and embalmings completed by the apprentice;

(3) Board means the Board of Funeral Directing and Embalming;

(4) Branch establishment means a place of business situated at a specific street address or location which is a subsidiary of a licensed funeral establishment, which contains a casket display room, a viewing area, or an area for conducting funeral services, or all of them, and where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted;

(5) Casket means a receptacle for a dead human body and does not include vaults, lawn crypts, mausoleums, or other outside receptacles for caskets;

(6) Crematory authority means the legal entity subject to licensure by the department to maintain and operate a crematory and perform cremation;

(7) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(8) Embalming means the practice of preparing a dead human body for burial or other final disposal by a licensed funeral director and embalmer or an apprentice, requesting and obtaining burial or removal permits, or assuming any of the other duties incident to the practice of embalming. Any person who publicly professes to be a funeral director and embalmer or an apprentice is deemed to be practicing embalming. The performance of the following acts is also deemed to be the practice of embalming: (a) The disinfection and preservation of dead human beings, entire or in part; and (b) the attempted disinfection and preservation thereof by the use or application of chemical substances, fluids, or gases ordinarily used, prepared, or intended for such purposes, either by outward application of such chemical substances, fluids, or gases on the body or by introducing them into the body, by vascular or hypodermic injection, or by direct introduction into the organs or cavities;

(9) Funeral directing means (a) counseling families or next of kin in regard to the conduct of a funeral service for a dead human body for burial, disposition, or cremation or directing or supervising burial, disposition, or cremation of dead human bodies, (b) providing for or maintaining a funeral establishment, or (c) the act of representing oneself as or using in connection with one's name the title of funeral director, mortician, or any other title implying that he or she is engaged in the business of funeral directing;

(10) Funeral establishment means a place of business situated at a specific street address or location devoted to the care and preparation of dead human bodies for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies;

(11) Licensee means a person licensed by the department as a funeral

director and embalmer on or after January 1, 1994, or a person licensed as a funeral director or embalmer prior to January 1, 1994;

(12) Licensure examination means a national standardized examination, the state jurisprudence examination, and the vital statistic forms examination; and

(13) Supervision means the direct oversight or the easy availability of the supervising funeral director and embalmer. The first twenty-five funeral assists and embalmings shall be completed under direct onsite supervision of the supervising funeral director and embalmer.

Sec. 466. Section 71-1333.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-1333.01 (1) The department shall deny an application for a license as a funeral establishment or branch establishment, revoke or suspend a license, or refuse renewal of such a license on any of the following grounds:

- (a) Conviction of any crime involving moral turpitude;
- (b) Obtaining a license as a funeral establishment or a branch establishment by false representation or fraud;
- (c) Operating a funeral establishment or branch establishment without a manager responsible for the operations of the establishment;
- (d) A conviction of a violation of any of the provisions of sections 71-147, 71-148, 71-1301 to 71-1306, and 71-1326 to 71-1354;
- (e) Unprofessional conduct, which is hereby defined to include (i) misrepresentation or fraud in the conduct of a funeral establishment or branch establishment or (ii) aiding or abetting an unlicensed person to practice funeral directing and embalming; or
- (f) Violation of the rules and regulations governing the practice of funeral directing and embalming.

(2) If the department determines to deny the application for a license as or to revoke, suspend, or refuse renewal of the license of a funeral establishment or branch establishment, it shall send to the applicant or licensee, by certified mail, a notice setting forth the particular reasons for the determination. The denial, revocation, suspension, or refusal of renewal shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such thirty-day period, requests a hearing in writing. The applicant or licensee shall be given a fair hearing before the department and may present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by certified mail to the applicant or licensee. The decision shall become final thirty days after a copy of such decision is mailed unless the applicant or licensee within such thirty-day period appeals the decision pursuant to section 71-1333.03. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed a fee at a rate prescribed by the rules and regulations of the department.

(3) The proceeding shall be summary in its nature and triable as an equity action. Affidavits may be received in evidence in the discretion of the department. The department shall have the power to administer oaths, to subpoena witnesses and compel their attendance, and to issue subpoenas duces tecum and require the production of books, accounts, and documents in the same manner and to the same extent as the district courts of the state. Depositions may be used by either party. Upon the completion of any hearing, the ~~director~~ Director of Public Health may, through entry of an order, exercise ~~in his or her discretion~~ any or all of the following powers:

- (a) Issue a censure against the manager;
- (b) Place the manager on probation;
- (c) Place a limitation or limitations on the license and upon the right of the manager to operate a funeral establishment or branch establishment to the extent, scope, or type of operation, for such time, and under such conditions as the director finds necessary and proper. The director shall consult with the board in all instances prior to issuing an order of limitation;
- (d) Impose a civil penalty not to exceed twenty thousand dollars;
- (e) Enter an order of suspension of the license;
- (f) Enter an order of revocation of the license; or
- (g) Dismiss the action.

(4) The manager of a funeral establishment or branch establishment shall not operate such establishment after its license is revoked or during the time for which it is suspended. If a funeral establishment or branch

establishment license is suspended, the suspension shall be for a definite period of time to be fixed by the ~~director~~ Director of Public Health. Such license shall be automatically reinstated upon the expiration of such period if the current renewal fees have been paid. If such license is revoked, such revocation shall be permanent, except that at any time after the expiration of two years application may be made for reinstatement of any manager whose funeral establishment or branch establishment license has been revoked. Such application shall be addressed to the director but may not be received or filed by him or her unless accompanied by a written recommendation of reinstatement by the board.

(5) The amount of any civil penalty assessed under this section shall be based on the severity of the violation. If any violation is a repeated or continuing violation, each violation or each day a violation continues shall constitute a separate violation for the purpose of computing the applicable civil penalty, if any. The department may adopt and promulgate the necessary rules and regulations concerning notice and hearing of such application. Any civil penalty assessed and unpaid under this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the district court of the county in which the violator resides or owns property. The department shall remit any collected civil penalty to the State Treasurer, within thirty days after receipt, for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. ~~The department shall within thirty days from receipt remit any collected civil penalty to the State Treasurer for credit to the permanent school fund.~~

Sec. 467. Section 71-1340, Reissue Revised Statutes of Nebraska, is amended to read:

71-1340 A decedent, prior to his or her death, may direct the preparation for the final disposition of his or her remains by written instructions. If such instructions are in a will or other written instrument, the decedent may direct that the whole or any part of such remains be given to a teaching institution, university, college, or legally licensed hospital, to the ~~Director of Regulation and Licensure~~, Director of Public Health, or to or for the use of any nonprofit blood bank, artery bank, eye bank, or other therapeutic service operated by any agency approved by the ~~Director of Regulation and Licensure~~ director under rules and regulations established by the director. The person or persons otherwise entitled to control the disposition of the remains under this section shall faithfully carry out the directions of the decedent.

If such instructions are contained in a will or other written instrument, they shall be immediately carried out, regardless of the validity of the will in other respects or of the fact that the will may not be offered for or admitted to probate until a later date.

This section shall be administered and construed to the end that such expressed instructions of any person shall be faithfully and promptly performed.

A funeral director and embalmer, physician, or cemetery authority shall not be liable to any person or persons for carrying out such instructions of the decedent, and any teaching institution, university, college, or legally licensed hospital or the ~~Director of Regulation and Licensure~~ Director of Public Health shall not be liable to any person or persons for accepting the remains of any deceased person under a will or other written instrument as set forth in this section.

Sec. 468. Section 71-1341, Reissue Revised Statutes of Nebraska, is amended to read:

71-1341 A written authorization for an autopsy given by the survivor or survivors, as enumerated in section 71-1339, having the right to control the disposition of remains may, subject to section 23-1824 and when not inconsistent with any directions given by the decedent pursuant to section 71-1340, include authorization for the removal of any specifically named organ or organs for therapeutic or scientific purposes. Pursuant to any such written authorization, any structure or organ may be given to the ~~Director of Regulation and Licensure~~ Director of Public Health or to any other therapeutic service operated by any nonprofit agency approved by the ~~Director of Regulation and Licensure~~, director, including, but not limited to, a teaching institution, university, college, legally licensed hospital, nonprofit blood bank, nonprofit artery bank, nonprofit eye bank, or nationally recognized nonprofit hormone and pituitary program. The person or persons performing any autopsy shall do so within a reasonable time and without delay and shall not exceed the removal permission contained in such written authorization, and the remains shall not be significantly altered in external

appearance nor shall any portion thereof be removed for purposes other than those expressly permitted in this section.

Sec. 469. Section 71-1356, Reissue Revised Statutes of Nebraska, is amended to read:

71-1356 For purposes of the Cremation of Human Remains Act, unless the context otherwise requires:

(1) Alternative container means a container in which human remains are placed in a cremation chamber for cremation;

(2) Authorizing agent means a person vested with the right to control the disposition of human remains pursuant to section 71-1339;

(3) Casket means a rigid container made of wood, metal, or other similar material, ornamented and lined with fabric, which is designed for the encasement of human remains;

(4) Cremated remains means the residue of human remains recovered after cremation and the processing of such remains by pulverization, leaving only bone fragments reduced to unidentifiable dimensions, and the unrecoverable residue of any foreign matter, such as eyeglasses, bridgework, or other similar material, that was cremated with the human remains;

(5) Cremated remains receipt form means a form provided by a crematory authority to an authorizing agent or his or her representative that identifies cremated remains and the person authorized to receive such remains;

(6) Cremation means the technical process that uses heat and evaporation to reduce human remains to bone fragments;

(7) Cremation chamber means the enclosed space within which a cremation takes place;

(8) Crematory means a building or portion of a building which contains a cremation chamber and holding facility;

(9) Crematory authority means the legal entity subject to licensure by the department to maintain and operate a crematory and perform cremation;

(10) Crematory operator means a person who is responsible for the operation of a crematory;

(11) Delivery receipt form means a form provided by a funeral establishment to a crematory authority to document the receipt of human remains by such authority for the purpose of cremation;

(12) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(13) Director means the Director of ~~Regulation and Licensure;~~ Public Health of the Division of Public Health;

(14) Funeral director has the same meaning as in section 71-507;

(15) Funeral establishment has the same meaning as in section 71-1301;

(16) Holding facility means the area of a crematory designated for the retention of human remains prior to cremation and includes a refrigerated facility;

(17) Human remains means the body of a deceased person, or a human body part, in any stage of decomposition and includes limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research;

(18) Permanent container means a receptacle made of durable material for the long-term placement of cremated remains; and

(19) Temporary container means a receptacle made of cardboard, plastic, or other similar material in which cremated remains are placed prior to the placement of such remains in an urn or other permanent container.

Sec. 470. Section 71-1363, Reissue Revised Statutes of Nebraska, is amended to read:

71-1363 (1) The fee for an initial or renewal license as a crematory authority shall include a fee of three hundred dollars.

(2) If the license application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars as an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

(3) The department shall collect the same fee as provided in subsection (1) of this section for reinstatement of a license that has lapsed or has been suspended. The department shall collect a fee of ten dollars for a duplicate original license.

(4) The department shall collect a fee of twenty-five dollars for a certified statement that a crematory authority is licensed in this state and a fee of five dollars for verification that a crematory authority is licensed in this state.

(5) The department shall adopt and promulgate rules and regulations for the establishment of fees under the Cremation of Human Remains Act.

(6) The department shall collect fees authorized under the act and

shall remit such fees to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. Such fees shall only be used for activities related to the licensure of crematory authorities.

Sec. 471. Section 71-1367, Reissue Revised Statutes of Nebraska, is amended to read:

71-1367 The department may deny or refuse to renew a license under the Cremation of Human Remains Act or take disciplinary action against a crematory authority licensed under the act as provided in section 71-1368 on any of the following grounds:

- (1) Violation of the Cremation of Human Remains Act or rules and regulations adopted and promulgated under the act;
- (2) Conviction of any crime involving moral turpitude;
- (3) Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction which, if committed within this state, would have constituted a misdemeanor or felony and which has a rational connection with the fitness or capacity of the crematory authority to operate a crematory;
- (4) Conviction of a violation pursuant to section 71-1371;
- (5) Obtaining a license as a crematory authority by false representation or fraud;
- (6) Misrepresentation or fraud in the operation of a crematory; or
- (7) Failure to allow access by an agent or employee of the Department of Health and Human Services, ~~the Department of Health and Human Services Finance and Support,~~ or the Department of Health and Human Services Regulation and Licensure to a crematory operated by the crematory authority for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of such department.

Sec. 472. Section 71-1368, Reissue Revised Statutes of Nebraska, is amended to read:

71-1368 (1) The department may impose any one or more of the following types of disciplinary action against a crematory authority licensed under the Cremation of Human Remains Act:

- (a) A fine not to exceed five hundred dollars per violation;
- (b) A limitation on the license and upon the right of the crematory authority to operate a crematory to the extent, scope, or type of operation, for such time, and under such conditions as the director finds necessary and proper;
- (c) Placement of the license on probation for a period not to exceed two years during which the crematory may continue to operate under terms and conditions fixed by the order of probation;
- (d) Suspension of the license for a period not to exceed two years during which the crematory may not operate; and
- (e) Revocation and permanent termination of the license.

(2) Any fine imposed and unpaid under the Cremation of Human Remains Act shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the crematory is located. The department shall remit fines to the State Treasurer, within thirty days after receipt, for distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. ~~The department shall, within thirty days after receipt, remit any such fines to the State Treasurer for credit to the permanent school fund.~~

Sec. 473. Section 71-1405, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1405 (1) Within thirty days after the date of the birth of any child born in this state with visible congenital deformities, the physician, certified nurse midwife, or other person in attendance upon such birth shall prepare and file with the Department of Health and Human Services ~~Finance and Support~~ a statement setting forth such visible congenital deformity. The form of such statement shall be prepared by the ~~Director of Finance and Support~~ department and shall be a part of the birth report furnished by the department.

(2) For purposes of this section, congenital deformities include a cleft lip, cleft palate, hernia, congenital cataract, or disability resulting from congenital or acquired heart disease, or any congenital abnormality or orthopedic condition that can be cured or materially improved. The orthopedic condition or deformity includes any deformity or disease of childhood generally recognized by the medical profession, and it includes deformities resulting from burns.

Sec. 474. Section 71-1617, Reissue Revised Statutes of Nebraska, is amended to read:

71-1617 In formulating rules, regulations, or other orders for the establishment of a health district or the carrying out of the purpose of sections 71-1601 to 71-1625 or for the management or control of any property which may come under the care or management of the board, the board and the director selected pursuant to section 71-1616 shall conform at least to the minimum requirements, rules, and regulations of the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ and the principles of public health and sanitation and the remedial care and treatment of the indigent sick people recognized by the medical profession.

Sec. 475. Section 71-1626, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1626 For purposes of sections 71-1626 to 71-1636:

(1) Core public health functions means assessment, policy development, and assurance designed to protect and improve the health of persons within a geographically defined community by (a) emphasizing services to prevent illness, disease, and disability, (b) promoting effective coordination and use of community resources, and (c) extending health services into the community, including public health nursing, disease prevention and control, public health education, and environmental health services;

(2) County, district, or city-county health department means a governmental entity approved by the Department of Health and Human Services ~~Regulation and Licensure~~ as a local full-time public health service which (a) utilizes local, state, federal, and other funds or any combination thereof, (b) employs qualified public health medical, nursing, environmental health, health education, and other essential personnel who work under the direction and supervision of a full-time qualified medical director or of a full-time qualified lay administrator and are assisted at least part time by at least one medical consultant who shall be a licensed physician, and (c) is operated in conformity with the rules, regulations, and policies of the Department of Health and Human Services. ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support.~~ The medical director or lay administrator shall be called the health director; and

(3) Local public health department means a county, district, or city-county health department.

Sec. 476. Section 71-1628, Reissue Revised Statutes of Nebraska, is amended to read:

71-1628 The county board of any county may (1) make an agreement with the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, or the Department of Health and Human Services Finance and Support~~ relative to the expenditure of local, state, federal, and other funds or any combination thereof, available for public health in such county; (2) after notice and public hearing, establish and maintain a single full-time local health department for such county and any other counties which combine for that purpose and, pursuant to such combination or agreement, such counties may cooperate with one another and the Department of Health and Human Services ~~Regulation and Licensure~~ and may contribute to a joint fund in carrying out the purpose and intent of sections 71-1626 to 71-1636. The duration and nature of such agreement shall be evidenced by the resolutions of the county boards of such counties, and such agreement shall be submitted to and approved by the Department of Health and Human Services; ~~Regulation and Licensure~~; or (3) cooperate with any city in the establishment and maintenance of a city-county health department as provided in section 71-1630. The duration and nature of such an agreement shall be evidenced by resolutions of the city council of the city and the county board participating, and such agreement shall be submitted to and approved by the Department of Health and Human Services. ~~Regulation and Licensure.~~ A city-county health department shall be administered as provided in the agreement between the county and the city and shall be considered a state-approved, local, full-time public health service.

Sec. 477. Section 71-1628.05, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1628.05 Each local public health department shall prepare an annual report regarding the core public health functions carried out by the department in the prior fiscal year. The report shall be submitted to the Department of Health and Human Services ~~Regulation and Licensure~~ by October 1. The Department of Health and Human Services ~~Regulation and Licensure~~ shall compile the reports and submit the results to the Health and Human Services Committee of the Legislature by December 1.

Sec. 478. Section 71-1628.06, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1628.06 The Department of Health and Human Services ~~Regulation and Licensure~~ shall employ two full-time persons with expertise in the public health field to provide technical expertise in carrying out core public health functions and essential elements and coordinate the dissemination of materials to the local public health departments.

Sec. 479. Section 71-1628.07, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1628.07 (1) The Department of Health and Human Services ~~Regulation and Licensure~~ shall establish a satellite office of minority health in each congressional district to coordinate and administer state policy relating to minority health. Each office shall implement a minority health initiative in counties with a minority population of at least five percent of the total population of the county as determined by the most recent federal decennial census which shall target, but not be limited to, infant mortality, cardiovascular disease, obesity, diabetes, and asthma.

(2) Each office shall prepare an annual report regarding minority health initiatives implemented in the immediately preceding fiscal year. The report shall be submitted to the department by October 1. The department shall submit such reports to the Health and Human Services Committee of the Legislature by December 1.

Sec. 480. Section 71-1630, Reissue Revised Statutes of Nebraska, is amended to read:

71-1630 (1) When a health department has been established by the county board of a county and approved by the Department of Health and Human Services ~~Regulation and Licensure~~ as a county health department, the county board of such county shall appoint a board of health which shall consist of the following members: (a) One member of the county board; (b) one dentist; (c) one physician; and (d) six public-spirited men or women interested in the health of the community. The physician and dentist shall each serve an initial term of three years. Three public-spirited men or women shall each serve an initial term of three years, and three public-spirited men or women shall each serve an initial term of two years. After the initial terms of office expire, each new appointment shall be for a term of three years. Appointments to fill any vacancies shall be for the unexpired term of the member whose term is being filled by such appointment. A county association or society of dentists or physicians or its managing board may submit each year to the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(2) When a district health department has been established by a joint resolution of the county boards of each county in a district health department, the county boards of such district shall meet and establish a district board of health with due consideration for a fair and equitable representation from the entire area to be served. The district board of health shall consist of the following members: (a) One member of each county board in the district, (b) at least one physician, (c) at least one dentist, and (d) one or more public-spirited men or women interested in the health of the community from each county in the district. One-third of the members shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years. After their terms of office expire, each new appointment shall be for a term of three years. Appointments to fill any vacancies shall be for the unexpired terms. A county association or society of dentists or physicians or its managing board may submit each year to the county boards a list of three persons of recognized ability in such profession. If such a list is submitted, the county boards, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(3) Except as provided in subsection (4) of this section, when the county board of any county and the city council of any city located in such county have executed an agreement, approved by the Department of Health and Human Services, ~~Regulation and Licensure~~, for maintaining a city-county health department, the city and county shall establish a city-county board of health. It shall consist of the following members selected by a majority vote of the city council and the county board, with due consideration to be given in an endeavor to secure a fair and equitable representation from the entire area to be served: (a) One representative of the county board, (b) one representative from the city council, (c) one physician, (d) one dentist, and (e) five public-spirited men or women, not employed in the health industry or in the health professions, who are interested in the health of the community. One-third of its members shall be appointed for terms of one year, one-third for terms of two years, and one-third for terms of three years. After their

terms of office expire, each new appointment shall be for a period of three years. A county association or society of dentists or physicians or its managing board may submit each year to the city council and the county board a list of three persons of recognized ability in such profession. If such a list is submitted, the city council and the county board, in making an appointment for such profession, shall consider the names on the list and may appoint one of the persons so named.

(4) (a) When the county board of any county having a population of more than two hundred thousand inhabitants and the city council of any city located in such county have executed an agreement, approved by the Department of Health and Human Services, ~~Regulation and Licensure~~, for maintaining a city-county health department on or after January 1, 1997, the city and county shall establish a city-county board of health. The board shall consist of the following members to be appointed by the mayor with the consent of the city council and county board: One representative of the county board, one representative from the city council, one physician, one dentist, and five public-spirited persons who are interested in the health of the community. Three of the members shall be appointed for terms of one year, three for terms of two years, and three for terms of three years. After the initial terms of office expire, each successor member shall be appointed for a term of three years. The physician and dentist members shall be appointed as provided in this subdivision. The mayor shall invite the local county association or society of dentists or physicians or its managing board to timely submit to the mayor a list of three persons of recognized ability in the profession. A list is timely submitted if it is submitted within sixty days after the mayor's invitation. If the list is not timely submitted, the mayor may consider the list timely submitted at any time prior to making an appointment, otherwise the mayor shall appoint a person of recognized ability in the profession. If the list is timely submitted, the mayor shall consider the names on the list and shall either appoint one of the persons on the list or invite a list of three new names using the process provided in this subdivision.

(b) The board of health shall, immediately after appointment, meet and organize by the election of one of its own members as president and one as vice president. The board members may elect such other officers as they deem necessary and may adopt and promulgate rules for the guidance of the board which are not inconsistent with law or the agreement creating the board. If any board member resigns or ceases to meet the requirements for eligibility on the board, or if there is any other vacancy on the board, the mayor shall appoint another representative to serve for the member's unexpired term subject to consent by a majority vote of both the city council and the county board. Any appointment to fill a vacancy on the board shall be for the unexpired term of the member whose vacancy is being filled.

(c) The board of health shall have the following duties:

(i) Assessment of community health status and available resources for health matters, including collecting and analyzing relevant data and annually reporting and making recommendations on improving public health matters to the mayor, city council, and county board;

(ii) Policy development for proposals before the board of health, the city council, and the county board to support and improve public health, including appointing, with the approval of the mayor, city council, and county board, advisory committees to the board of health to facilitate community development functions and coalition building related to public health and adopting and approving official health department policies consistent with applicable law and approved by the affirmative vote of not less than five board members at a regular meeting of the board in the following areas:

(A) Community health services and health promotion and outreach, specifically including policies related to the following:

(I) Client services and fees;

(II) Standing orders, supervision, screening, and emergency and referral protocols and procedures;

(III) Monitoring and reporting; and

(IV) Communicable disease investigation, immunization, vaccination, testing, and prevention measures, including measures to arrest the progress of communicable diseases;

(B) Environmental health, specifically including policies related to the following:

(I) Permitting, inspection, and enforcement;

(II) Monitoring, sampling, and reporting;

(III) Technical assistance and plan review; and

(IV) Prevention measures;

(C) Investigating and controlling diseases and injury, specifically



including policies related to the following:

- (I) Permitting, inspection, and enforcement;
- (II) Monitoring, sampling, and reporting;
- (III) Technical assistance and plan review; and
- (IV) Prevention measures; and

(D) Other health matters as may be requested by the city council or county board; and

(iii) Assurance that needed services are available through public or private sources in the community, including:

(A) Acting in an advisory capacity to review and recommend changes to ordinances, resolutions, and resource allocations before the city council or county board related to health matters;

(B) Annually reviewing and recommending changes in the proposed budget for resource allocations related to the health department as provided in the city-county agreement; and

(C) Monitoring and reviewing the enforcement of laws and regulations of the board of health, city council, and county board related to public health in the community.

(d) The mayor of the city shall appoint, with the approval of the board of health, city council, and county board, the health director of the health department. The health director shall be a member of the unclassified service of the city under the direction and supervision of the mayor. The health director shall be well-trained in public health work, but he or she need not be a graduate of an accredited medical school. If the health director is not a graduate of an accredited medical school, the health director shall be assisted at least part time by at least one medical consultant who is a licensed physician. The mayor shall submit the health department budget to the city council and county board. The mayor shall also provide budget information to the board of health with sufficient time to allow such board to consider such information. The mayor may enter into contracts and accept grants on behalf of the health department. The mayor may terminate the health director with approval of a majority vote of the city council, the county board, and the board of health. The health director shall:

(i) Provide administrative supervision of the health department;

(ii) Make all necessary sanitary and health investigations and inspections;

(iii) Investigate the existence of any contagious or infectious disease and adopt measures to arrest the progress of the disease;

(iv) Distribute free, as the local needs may require, all vaccines, drugs, serums, and other preparations obtained from the Department of Health and Human Services or otherwise provided for public health purposes;

(v) Give professional advice and information to school authorities and other public agencies on all matters pertaining to sanitation and public health;

(vi) Inform the board of health when the city council or county board is considering proposals related to health matters or has otherwise requested recommendations from the board of health;

(vii) Inform the board of health of developments in the field of public health and of any need for updating or adding to or deleting from the programs of the health department; and

(viii) Perform duties and functions as otherwise provided by law.

Sec. 481. Section 71-1631, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1631 Except as provided in subsection (4) of section 71-1630, the board of health of each county, district, or city-county health department organized under sections 71-1626 to 71-1636 shall, immediately after appointment, meet and organize by the election of one of its own members as president, one as vice president, and another as secretary and, either from its own members or otherwise, a treasurer and shall have the power set forth in this section. The board may elect such other officers as it may deem necessary and may adopt and promulgate such rules and regulations for its own guidance and for the government of such health department as may be necessary, not inconsistent with sections 71-1626 to 71-1636. The board of health shall, with the approval of the county board and the municipality, whenever a city is a party in such a city-county health department:

(1) Select the health director of such department who shall be (a) well-trained in public health work though he or she need not be a graduate of an accredited medical school, but if he or she is not such a graduate, he or she shall be assisted at least part time by at least one medical consultant who shall be a licensed physician, (b) qualified in accordance with the state personnel system, and (c) approved by the Department of Health and Human Services; ~~Regulation and Licensure;~~

(2) Hold an annual meeting each year, at which meeting officers shall be elected for the ensuing year;

(3) Hold meetings quarterly each year;

(4) Hold special meetings upon a written request signed by two of its members and filed with the secretary;

(5) Provide suitable offices, facilities, and equipment for the health director and assistants and their pay and traveling expenses in the performance of their duties, with mileage to be computed at the rate provided in section 81-1176;

(6) Publish, on or soon after the second Tuesday in July of each year, in pamphlet form for free distribution, an annual report showing (a) the condition of its trust for each year, (b) the sums of money received from all sources, giving the name of any donor, (c) how all money has been expended and for what purpose, and (d) such other statistics and information with regard to the work of such health department as may be of general interest;

(7) Enact rules and regulations, subsequent to public hearing held after due public notice of such hearing by publication at least once in a newspaper having general circulation in the county or district at least ten days prior to such hearing, and enforce the same for the protection of public health and the prevention of communicable diseases within its jurisdiction, subject to the review and approval of such rules and regulations by the Department of Health and Human Services; ~~Regulation and Licensure;~~

(8) Make all necessary sanitary and health investigations and inspections;

(9) In counties having a population of more than three hundred thousand inhabitants, enact rules and regulations for the protection of public health and the prevention of communicable diseases within the district, except that such rules and regulations shall have no application within the jurisdictional limits of any city of the metropolitan class and shall not be in effect until (a) thirty days after the completion of a three-week publication in a legal newspaper, (b) approved by the county attorney with his or her written approval attached thereto, and (c) filed in the office of the county clerk of such county;

(10) Investigate the existence of any contagious or infectious disease and adopt measures, with the approval of the Department of Health and Human Services, ~~Regulation and Licensure,~~ to arrest the progress of the same;

(11) Distribute free as the local needs may require all vaccines, drugs, serums, and other preparations obtained from the Department of Health and Human Services or purchased for public health purposes by the county board;

(12) Upon request, give professional advice and information to all city, village, and school authorities on all matters pertaining to sanitation and public health;

(13) Fix the salaries of all employees, including the health director. Such city-county health department may also establish an independent pension plan, retirement plan, or health insurance plan or, by agreement with any participating city or county, provide for the coverage of officers and employees of such city-county health department under such city or county pension plan, retirement plan, or health insurance plan. Officers and employees of a county health department shall be eligible to participate in the county pension plan, retirement plan, or health insurance plan of such county. Officers and employees of a district health department formed by two or more counties shall be eligible to participate in the county retirement plan unless the district health department establishes an independent pension plan or retirement plan for its officers or employees;

(14) Establish fees for the costs of all services, including those services for which third-party payment is available; and

(15) In addition to powers conferred elsewhere in the laws of the state and notwithstanding any other law of the state, implement and enforce an air pollution control program under subdivision (23) of section 81-1504 or subsection (1) of section 81-1528, which program shall be consistent with the federal Clean Air Act, as amended, 42 U.S.C. 7401 et seq. Such powers shall include without limitation those involving injunctive relief, civil penalties, criminal fines, and burden of proof. Nothing in this section shall preclude the control of air pollution by resolution, ordinance, or regulation not in actual conflict with the state air pollution control regulations.

Sec. 482. Section 71-1635, Reissue Revised Statutes of Nebraska, is amended to read:

71-1635 When the county board of any county or counties creates a health department as provided by sections 71-1626 to 71-1636, every other local, municipal, or county public health agency or department, except city or county hospitals, may be abolished, and such county or district health

department may be given full control over all health matters in the county or counties, including all municipalities in the county in conformity with the rules, regulations, and policies of the Department of Health and Human Services. ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support.~~ When a city has joined in the establishment of a city-county health department, such city-county health department may be given such control over all health matters in the city as may be provided by agreement between the county and the city with the approval of the Department of Health and Human Services. ~~Regulation and Licensure.~~ If the health department in a county or city is changed, any lawful ordinance, resolution, regulation, policy, or procedure relating to any of the functions conferred by sections 71-1626 to 71-1636 of the former health department shall remain in full force and effect until it is repealed or replaced or until it conflicts with a subsequently enacted measure.

Sec. 483. Section 71-1637, Reissue Revised Statutes of Nebraska, is amended to read:

71-1637 (1) Any city by its mayor and council or by its commission, any village by its village board, any county by its board of supervisors or commissioners, or any township by its electors shall have power to employ a visiting community nurse, a home health nurse, or a home health agency defined in section 71-417 and the rules and regulations adopted and promulgated under the Health Care Facility Licensure Act. Such nurses or home health agency shall do and perform such duties as the city, village, county, or township, by their officials and electors, shall prescribe and direct. The city, village, county, or township shall have the power to levy a tax, not exceeding three and five-tenths cents on each one hundred dollars on the taxable valuation of the taxable property of such city, village, county, or township, for the purpose of paying the salary and expenses of such nurses or home health agency. The levy shall be subject to sections 77-3442 and 77-3443. The city, village, county, or township shall have the power to constitute and empower such nurses or home health agency with police power to carry out the order of such city, village, county, or township.

(2) The governing body of any city, village, county, or township may contract with any visiting nurses association, licensed hospital home health agency, or other licensed home health agency, including those operated by the Department of Health and Human Services, to perform the duties contemplated in subsection (1) of this section, subject to the supervision of the governing body, and may pay the expense of such contract out of the general funds of the city, village, county, or township.

(3) Nothing in this section shall be construed to allow any city, village, county, township, nurse, or home health agency to (a) avoid the requirements of individual licensure, (b) perform any service beyond the scope of practice of licensure or beyond the limits of licensure prescribed by the Health Care Facility Licensure Act, or (c) violate any rule or regulation adopted and promulgated by the Department of Health and Human Services. ~~the Department of Health and Human Services Regulation and Licensure, or the Department of Health and Human Services Finance and Support.~~

Sec. 484. Section 71-1710, Reissue Revised Statutes of Nebraska, is amended to read:

71-1710 Department means the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 485. Section 71-1729, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1729 For purposes of the Certified Registered Nurse Anesthetist Act, unless the context otherwise requires:

- (1) Board means the Board of Advanced Practice Registered Nurses;
- (2) Certified registered nurse anesthetist means a licensed registered nurse holding a certificate issued under the act;
- (3) Department means the Department of Health and Human Services; ~~Regulation and Licensure;~~
- (4) Licensed practitioner means any physician or osteopathic physician licensed to prescribe, diagnose, and treat as prescribed in sections 71-1,102 and 71-1,137; and

(5) Practice of anesthesia means (a) the performance of or the assistance in any act involving the determination, preparation, administration, or monitoring of any drug used to render an individual insensible to pain for procedures requiring the presence of persons educated in the administration of anesthetics or (b) the performance of any act commonly the responsibility of educated anesthesia personnel. Practice of anesthesia includes the use of those techniques which are deemed necessary for adequacy in performance of anesthesia administration. Nothing in the

Certified Registered Nurse Anesthetist Act prohibits routine administration of a drug by a duly licensed registered nurse, licensed practical nurse, or other duly authorized person for the alleviation of pain or prohibits the practice of anesthesia by students enrolled in an accredited school of nurse anesthesia when the services performed are a part of the course of study and are under the supervision of a licensed practitioner or certified registered nurse anesthetist.

Sec. 486. Section 71-1745, Reissue Revised Statutes of Nebraska, is amended to read:

71-1745 Department shall mean the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 487. Section 71-1774, Reissue Revised Statutes of Nebraska, is amended to read:

71-1774 For purposes of the Licensed Practical Nurse-Certified Act:

- (1) Administration includes observing, initiating, monitoring, discontinuing, maintaining, regulating, adjusting, documenting, assessing, planning, intervening, and evaluating;
- (2) Approved certification course means a course for the education and training of a licensed practical nurse-certified which the board has approved;
- (3) Board means the Board of Nursing;
- (4) Department means the Department of Health and Human Services; ~~Regulation and Licensure;~~
- (5) Direct supervision means that the responsible licensed practitioner or registered nurse is physically present in the clinical area and is available to assess, evaluate, and respond immediately;
- (6) Initial venipuncture means the initiation of intravenous therapy based on a new order from a licensed practitioner for an individual for whom a previous order for intravenous therapy was not in effect;
- (7) Intravenous therapy means the therapeutic infusion or injection of substances through the venous system;
- (8) Licensed practical nurse-certified means a licensed practical nurse who meets the standards established pursuant to section 71-1777 and who holds a valid certificate issued by the department pursuant to the act;
- (9) Licensed practitioner means any person authorized by state law to prescribe intravenous therapy; and
- (10) Pediatric patient means a patient who is both younger than eighteen years old and under the weight of thirty-five kilograms.

Sec. 488. Section 71-1798.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1798.01 The Board of Nursing shall recommend annually to the ~~Director of Regulation and Licensure~~ Department of Health and Human Services the percentage of all nursing fees collected during the year that are to be used to cover the cost of the Nebraska Center for Nursing, except that the percentage shall not be greater than fifteen percent of the biennial revenue derived from the fees.

Sec. 489. Section 71-1799, Reissue Revised Statutes of Nebraska, is amended to read:

71-1799 (1) The Nebraska Center for Nursing Board is created. The board shall be a policy-setting board for the Nebraska Center for Nursing. The board shall be appointed by the Governor as follows:

- (a) Ten members, at least three of whom shall be registered nurses, one of whom shall be a licensed practical nurse, one of whom shall be a representative of the hospital industry, and one of whom shall be a representative of the long-term care industry;
- (b) One nurse educator recommended by the Board of Regents of the University of Nebraska;
- (c) One nurse educator recommended by the Nebraska Community College Association;
- (d) One nurse educator recommended by the Nebraska Association of Independent Colleges and Universities; and
- (e) Three members recommended by the State Board of Health.

(2) The initial terms of the members of the Nebraska Center for Nursing Board shall be:

- (a) Five of the ten members appointed under subdivision (1)(a) of this section shall serve for one year and five shall serve for two years;
- (b) The member recommended by the Board of Regents shall serve for three years;
- (c) The member recommended by the Nebraska Community College Association shall serve for two years;
- (d) The member recommended by the Nebraska Association of Independent Colleges and Universities shall serve for one year; and

(e) The members recommended by the State Board of Health shall serve for three years.

The initial appointments shall be made within sixty days after July 13, 2000. After the initial terms expire, the terms of all of the members shall be three years with no member serving more than two consecutive terms.

(3) The Nebraska Center for Nursing Board shall have the following powers and duties:

- (a) To determine operational policy;
- (b) To elect a chairperson and officers to serve two-year terms. The chairperson and officers may not succeed themselves;
- (c) To establish committees of the board as needed;
- (d) To appoint a multidisciplinary advisory council for input and advice on policy matters;
- (e) To implement the major functions of the Nebraska Center for Nursing; and
- (f) To seek and accept nonstate funds for carrying out center policy.

(4) The board members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(5) The Department of Health and Human Services ~~Regulation and Licensure~~ shall provide administrative support for the board. The board may contract for additional support not provided by the department.

Sec. 490. Section 71-17,102, Reissue Revised Statutes of Nebraska, is amended to read:

71-17,102 For purposes of the Nursing Student Loan Act:

(1) Approved nursing program means a program offered by a public or private institution in this state (a) which consists of courses of instruction in regularly scheduled classes leading to a master of science degree, a bachelor of science degree, an associate degree, or a diploma in nursing or (b) for the preparation for licensure as a licensed practical nurse available to regularly enrolled undergraduate or graduate students;

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

(3) Nontraditional student means a student who has not attended classes as a regular full-time student for at least three years; and

(4) Practice of nursing has the definition found in section 71-1,132.05.

Sec. 491. Section 71-17,109, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-17,109 For purposes of the Nursing Faculty Student Loan Act:

(1) Approved nursing program means a program offered by a public or private postsecondary educational institution in Nebraska (a) which consists of courses of instruction in regularly scheduled classes leading to a master of science degree, a bachelor of science degree, an associate degree, or a diploma in nursing or (b) for the preparation for licensure as a licensed practical nurse available to regularly enrolled undergraduate or graduate students;

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

(3) Masters or doctoral accredited nursing program means a postgraduate nursing education program that has been accredited by a nationally recognized accrediting agency and offered by a public or private postsecondary educational institution in Nebraska.

Sec. 492. Section 71-17,113, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-17,113 Beginning January 1, 2006, through December 31, 2007, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall charge a fee of one dollar, in addition to any other fee, for each license renewal for a registered nurse or licensed practical nurse pursuant to section 71-1,132.20. Such fee shall be collected at the time of renewal and remitted to the State Treasurer for credit to the Nursing Faculty Student Loan Cash Fund.

Sec. 493. Section 71-17,118, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-17,118 For purposes of the Clinical Nurse Specialist Practice Act:

(1) Approved certifying body means a national certification organization which (a) is approved by the board, (b) certifies qualified licensed registered nurses for advanced practice, (c) has eligibility requirements related to education and practice, and (d) offers an examination in an area of practice which meets psychometric guidelines and tests approved by the board;

(2) Board means the Board of Advanced Practice Registered Nurses;

(3) Clinical nurse specialist means a registered nurse who meets the requirements of section 71-17,119 and who holds a certificate issued under the Clinical Nurse Specialist Practice Act; and

(4) Department means the Department of Health and Human Services, ~~Regulation and Licensure.~~

Sec. 494. Section 71-1802, Reissue Revised Statutes of Nebraska, is amended to read:

71-1802 ~~The Director of Regulation and Licensure Department of Health and Human Services~~ is hereby authorized to issue permits for the use of the ~~aforesaid materials pathogenic microorganisms described in section 71-1801~~ in the prevention or control of diseases in humans, if in ~~his or her~~ the opinion of the department there is sufficient warrant for their utilization for the ~~aforesaid~~ such purpose. The ~~Director of Regulation and Licensure department~~ shall certify to the State Veterinarian the materials or substances that ~~he or she considers~~ contain live microorganisms which are pathogenic to humans. The ~~director department~~ is further authorized to promulgate rules and regulations to carry out the provisions of this section.

Sec. 495. Section 71-1803, Reissue Revised Statutes of Nebraska, is amended to read:

71-1803 The State Veterinarian is hereby authorized to issue permits for the use of the ~~aforesaid materials pathogenic microorganisms described in section 71-1801~~ in the prevention or control of diseases of animals, if in ~~his or her~~ the opinion of the Department of Health and Human Services there is sufficient warrant for their utilization for the ~~aforesaid~~ such purpose. In carrying out the duties of this section with reference to animals, the State Veterinarian shall take into consideration the certification made by the ~~Director of Regulation and Licensure Department of Health and Human Services~~ as provided for in section 71-1802. The State Veterinarian is further authorized to promulgate rules and regulations to carry out the provisions of this section.

Sec. 496. Section 71-1804, Reissue Revised Statutes of Nebraska, is amended to read:

71-1804 The permits, issued under the provisions of sections 71-1802 and 71-1803, shall be valid for the period of one year, or part thereof, expiring on December 31 of each year. However, all such permits must remain subject to abrogation and renewal, if in the opinion of the ~~Director of Regulation and Licensure Department of Health and Human Services~~ or State Veterinarian there is sufficient warrant for such abrogation or renewal.

Sec. 497. Section 71-1903, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1903 (1) Before issuance of a license under sections 71-1901 to 71-1906.01, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the service and the place where the foster care is to be furnished are such as to ensure the proper care and treatment of children. The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01, payable by the licensee or applicant for a license, except that the department may pay the fee for inspection for fire safety of foster family homes as defined in section 71-1902. The department may ~~request the Department of Health and Human Services Regulation and Licensure to~~ conduct sanitation and health standards investigations pursuant to subsection (2) of this section. The ~~Department of Health and Human Services department~~ may also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing foster care to see that such service is being properly conducted.

(2) ~~The Department of Health and Human Services Regulation and Licensure shall make an investigation and report to the Department of Health and Human Services, within thirty days after receipt of the request from the Department of Health and Human Services, The department shall make an investigation and report of all facilities and programs of licensed providers of foster care programs subject to this section or applicants for licenses to provide such programs to determine if the place or places to be covered by such licenses meet standards of health and sanitation set by the Department of Health and Human Services department for the care and protection of the child or children who may be placed in such facilities and programs. The Department of Health and Human Services Regulation and Licensure department may delegate the investigation authority to qualified local environmental health personnel.~~

(3) Before the foster care placement of any child in Nebraska by the Department of Health and Human Services on and after July 16,

~~2004, department,~~ the department shall require a national criminal history record information check of the prospective foster parent of such child and each member of such prospective foster parent's household who is eighteen years of age or older. The department shall provide two sets of legible fingerprints for such persons to the Nebraska State Patrol for submission to the Federal Bureau of Investigation. The Nebraska State Patrol shall conduct a criminal history record information check of such persons and shall submit such fingerprints to the Federal Bureau of Investigation for a national criminal history record information check. The criminal history record information check shall include information from federal repositories of such information and repositories of such information in other states if authorized by federal law. The Nebraska State Patrol shall issue a report of the results of such criminal history record information check to the department. The department shall pay a fee to the Nebraska State Patrol for conducting such check. Information received from the criminal history record information check required under this subsection shall be used solely for the purpose of evaluating and confirming information provided by such persons for providing foster care or for the finalization of an adoption. A child may be placed in foster care by the department prior to the completion of a criminal history record information check under this subsection in emergency situations as determined by the department.

Sec. 498. Section 71-1909, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1909 (1) The purposes of the Child Care Licensing Act are to provide:

(a) Statewide licensure standards for persons providing child care programs; and

(b) ~~The Department of Health and Human Services Regulation and Licensure~~ department with authority to coordinate the enforcement of standards on licensees.

(2) It is the intent of the Legislature that the licensing and regulation of programs under the act exist for the protection of children and to assist parents in making informed decisions concerning enrollment and care of their children in such programs.

Sec. 499. Section 71-1910, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1910 For purposes of the Child Care Licensing Act, unless the context otherwise requires:

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

~~(2) Director~~ means the Director of Regulation and Licensure; and

~~(3)-(a)~~ (2) (a) Program means the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and includes any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-1104, or preschool or nursery school.

(b) Program does not include casual care at irregular intervals, a recreation camp as defined in section 71-3101, classes or services provided by a religious organization other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-318, services provided only to school-age children during the summer and other extended breaks in the school year, or foster care as defined in section 71-1901.

Sec. 500. Section 71-1913.01, Revised Statutes Cumulative Supplement, 2006, 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~~ department may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, an advanced practice registered nurse practicing under and in accordance with his or her respective certification act, 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 onsite to the ~~Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure~~, department, and shall be filed with the ~~Department of Health and Human Services~~ department for review and inspection. Each program shall report to the ~~Department of Health and Human Services~~ department 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. 501. Section 71-1913.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1913.02 (1) The ~~Department of Health and Human Services Regulation and Licensure~~ department 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~~, department.

(2) If the ~~Department of Health and Human Services or the Department of Health and Human Services Regulation and Licensure~~ department discovers noncompliance with section 71-1913.01, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall allow a noncomplying program thirty days to correct deficiencies.

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

Sec. 502. Section 71-1913.03, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1913.03 The ~~Department of Health and Human Services Regulation and Licensure~~ department 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~~ department 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. 503. Section 71-1914, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1914 (1) The department shall be the state's coordinating agency for licensure and regulation of programs in this state in order to (a) provide efficient services pursuant to the Child Care Licensing Act, (b) avoid duplication of services, and (c) prevent an unnecessary number of inspections of any program. The department may request cooperation and assistance from local and state agencies and such agencies shall promptly respond. The extent of an agency's cooperation may be included in the report to the Legislature pursuant to section 43-3402.

(2) A city, village, or county may adopt rules, regulations, or ordinances establishing physical well-being and safety standards for programs whether or not the persons providing such programs are subject to licensure under section 71-1911. Such rules, regulations, or ordinances shall be as stringent as or more stringent than the department's rules and regulations for licensees pursuant to the Child Care Licensing Act. The city, village, or county adopting such rules, regulations, or ordinances and the department shall coordinate the inspection and supervision of licensees to avoid duplication of inspections. A city, village, or county shall report any violation of such rules, regulations, or ordinances to the ~~director~~, department. The city, village, or county may administer and enforce such rules, regulations, and ordinances. Enforcement of provisions of the Child Care Licensing Act or rules or regulations adopted and promulgated under the act shall be by the department pursuant to sections 71-1919 to 71-1923.

Sec. 504. Section 71-1915, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1915 (1) Whenever the ~~director~~ department finds that an emergency exists requiring immediate action to protect the physical well-being and



safety of a child in a program, the ~~director~~ department may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as the ~~director~~ department deems necessary to meet the emergency. The order may include an immediate prohibition on the care of children by the licensee other than children of the licensee. An order under this subsection shall be effective immediately. Any person to whom the order is directed shall comply immediately, and upon application to the ~~director~~, department, the person shall be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing the ~~director~~ department shall continue to enforce ~~his or her~~ such order or rescind or modify it.

(2) The ~~director~~ department may petition the appropriate district court for an injunction whenever ~~he or she believes~~ there is the belief that any person is violating the Child Care Licensing Act, an order issued pursuant to the act, or any rule or regulation adopted and promulgated pursuant to the act. It shall be the duty of each county attorney or the Attorney General to whom the ~~director~~ department reports a violation to cause appropriate proceedings to be instituted without delay to ensure compliance with the act, rules, regulations, and orders.

Sec. 505. Section 71-1919, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1919 The department may deny the issuance of or take disciplinary action against a license issued under the Child Care Licensing Act on any of the following grounds:

(1) Failure to meet or violation of any of the requirements of the Child Care Licensing Act or the rules and regulations adopted and promulgated under the act;

(2) Violation of an order of the ~~director~~ department under the act;

(3) Conviction of, or substantial evidence of committing or permitting, aiding, or abetting another to commit, any unlawful act, including, but not limited to, unlawful acts committed by an applicant or licensee under the act, household members who reside at the place where the program is provided, or employees of the applicant or licensee that involve:

(a) Physical abuse of children or vulnerable adults as defined in section 28-371;

(b) Endangerment or neglect of children or vulnerable adults;

(c) Sexual abuse, sexual assault, or sexual misconduct;

(d) Homicide;

(e) Use, possession, manufacturing, or distribution of a controlled substance listed in section 28-405;

(f) Property crimes, including, but not limited to, fraud, embezzlement, and theft by deception; and

(g) Use of a weapon in the commission of an unlawful act;

(4) Conduct or practices detrimental to the health or safety of a person served by or employed at the program;

(5) Failure to allow an agent or employee of the ~~Department of Health and Human Services, the Department of Health and Human Services Finance and Support, or the Department of Health and Human Services Regulation and Licensure~~ department access to the program for the purposes of inspection, investigation, or other information collection activities necessary to carry out the duties of ~~such departments,~~ the department;

(6) Failure to allow state or local inspectors, investigators, or law enforcement officers access to the program for the purposes of investigation necessary to carry out their duties;

(7) Failure to meet requirements relating to sanitation, fire safety, and building codes;

(8) Failure to comply with or violation of the Medication Aide Act;

(9) Failure to file a report of suspected abuse or neglect as required by sections 28-372 and 28-711;

(10) Violation of any city, village, or county rules, regulations, or ordinances regulating licensees; or

(11) Failure to pay fees required under the Child Care Licensing Act.

Sec. 506. Section 71-1922, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-1922 (1) If the department determines to deny the issuance of or take disciplinary action against a license under the Child Care Licensing Act, the department shall send to the applicant or licensee, by certified mail to the address of the applicant or licensee, a notice setting forth the determination, the particular reasons for the determination, including a specific description of the nature of the violation and the statute, rule, regulation, or order violated, and the type of disciplinary action which is

pending. A copy of the notice shall also be mailed to the person in charge of the program if the licensee is not actually involved in the daily operation of the program. If the licensee is a corporation, a copy of the notice shall be sent to the corporation's registered agent.

(2) The denial or disciplinary action shall become final fifteen days after the mailing of the notice unless the applicant or licensee, within such fifteen-day period, makes a written request for a hearing. The license shall continue in effect until the final order of the ~~director~~ department if a hearing is requested. If the ~~director~~ department does not receive such request within such fifteen-day period, the action of the department shall be final.

Sec. 507. Section 71-2002, Reissue Revised Statutes of Nebraska, is amended to read:

71-2002 For purposes of the State Hospital Survey and Construction Act: As used in sections 71-2001 to 71-2016, unless the context otherwise requires:

(1) ~~Director shall mean the Director of Regulation and Licensure; Department shall mean the Department of Health and Human Services;~~

(2) The federal act shall mean, but is not restricted to, Public Law 88-156, Public Law 88-164, Public Law 88-581, Public Law 88-443, and other measures of similar intent which have been, or may in the future be, passed by the Congress of the United States;

(3) The Surgeon General shall mean the Surgeon General of the Public Health Service of the United States or such other federal office or agency responsible for the administration of the federal Hospital Survey and Construction Act, 42 U.S.C. 291 and amendments thereto;

(4) Hospital includes, but is not restricted to, facilities or parts of facilities, which provide space for public health centers, mental health clinics, and general, tuberculosis, mental, long-term care, and other types of hospitals, and related facilities, such as homes for the aged or infirm, laboratories, out-patient departments, nurses' home and educational facilities, and central service facilities operated in connection with hospitals;

(5) Public health center shall mean a publicly owned facility for providing public health services, including related facilities such as laboratories, clinics, and administrative offices operated in connection with public health centers; and

(6) Nonprofit hospital shall mean any hospital owned and operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Sec. 508. Section 71-2003, Reissue Revised Statutes of Nebraska, is amended to read:

71-2003 The Department of Health and Human Services Regulation and Licensure department shall constitute the sole agency of the state for the purpose of (1) making an inventory of existing hospitals, surveying the need for construction of hospitals, and developing a program of hospital construction as provided in section 71-2007, and (2) developing and administering a state plan for the construction of public and other nonprofit hospitals as provided in sections 71-2008 to 71-2016. the State Hospital Survey and Construction Act.

Sec. 509. Section 71-2004, Reissue Revised Statutes of Nebraska, is amended to read:

71-2004 In carrying out the purposes of sections 71-2001 to 71-2016, the State Hospital Survey and Construction Act, the director department is authorized and directed:

(1) To require such reports, make such inspections and investigations, and prescribe such regulations as ~~he or she~~ it deems necessary;

(2) To provide such methods of administration, appoint an assistant director and other personnel of the division, and take such other action as may be necessary to comply with the requirements of the federal act and the regulations thereunder;

(3) To procure ~~in his or her discretion~~ the temporary or intermittent services of experts or consultants or organizations thereof, by contract, when such services are to be performed on a part-time or fee-for-service basis and do not involve the performance of administrative duties;

(4) To the extent ~~that he or she considers~~ desirable to effectuate the purposes of ~~sections 71-2001 to 71-2016,~~ the State Hospital Survey and Construction Act, to enter into agreements for the utilization of the facilities and services of other departments, agencies, and institutions, public or private;

(5) To accept on behalf of the state and to deposit with the State

Treasurer any grant, gift, or contribution made to assist in meeting the cost of carrying out the purposes of ~~sections 71-2001 to 71-2016, the act~~ and to expend the same for such purpose; and

(6) To match funds with federal grants when required in order to obtain such funds in carrying out the ~~provisions of sections 71-2001 to 71-2016, act.~~

Sec. 510. Section 71-2006, Reissue Revised Statutes of Nebraska, is amended to read:

71-2006 Such money as may be appropriated by the Legislature for the administration of ~~sections 71-2001 to 71-2016 the State Hospital Survey and Construction Act~~ shall be expended upon proper certification by the ~~director department~~ as provided by law.

Sec. 511. Section 71-2007, Reissue Revised Statutes of Nebraska, is amended to read:

71-2007 The ~~director department~~ is authorized and directed to make an inventory of existing hospitals and medical facilities, including, but not restricted to, public, nonprofit and proprietary hospitals and other medical facilities, to accumulate pertinent comparable statistical data from existing hospitals and medical facilities, to survey the need for construction or expansion of hospitals and, on the basis of such statistical data, inventory and survey, and to develop a program for the construction or expansion of such public and other nonprofit hospitals and medical facilities as will, in conjunction with existing facilities, afford the necessary physical facilities for furnishing adequate hospital, clinic, and other essential health services without duplication or fragmentation of such facilities or services to all the people of the state.

Sec. 512. Section 71-2009, Reissue Revised Statutes of Nebraska, is amended to read:

71-2009 The ~~director department~~ is authorized to make application to the Surgeon General for federal funds to assist in carrying out the activities herein provided in the State Hospital Survey and Construction Act. Such funds shall be deposited in the state treasury and shall be available when appropriated, ~~to the director~~ for expenditure for carrying out the purposes of ~~sections 71-2008 to 71-2016, the act~~. Any such funds received and not expended for such purposes shall be repaid to the Treasury of the United States.

Sec. 513. Section 71-2010, Reissue Revised Statutes of Nebraska, is amended to read:

71-2010 The ~~director department~~ shall prepare and submit to the Surgeon General a state plan which shall include the hospital construction program developed under ~~sections 71-2008 to 71-2016, the State Hospital Survey and Construction Act~~, and which shall provide for the establishment, administration, and operation of hospital and medical facility construction activities in accordance with the requirements of the federal act and regulations thereunder. The ~~director department~~ shall, prior to the submission of such plan to the Surgeon General, give adequate publicity to a general description of all the provisions proposed to be included therein, and hold a public hearing at which all persons or organizations with a legitimate interest in such plan may be given an opportunity to express their views. After approval of the plan by the Surgeon General, the ~~director department~~ shall make the plan, or plans, or a copy thereof, available upon request to all interested persons or organizations. The ~~director department~~ shall from time to time review the hospital construction program and submit to the Surgeon General any modifications ~~thereof which he may find necessary~~, and may submit to the Surgeon General such modifications of the state plan, or plans, not inconsistent with the requirements of the federal act, ~~as he may deem advisable.~~

Sec. 514. Section 71-2011, Reissue Revised Statutes of Nebraska, is amended to read:

71-2011 The ~~director department~~ shall by regulation prescribe minimum standards for the maintenance and operation of hospitals and other medical facilities which receive federal aid for construction under the state plan.

Sec. 515. Section 71-2013, Reissue Revised Statutes of Nebraska, is amended to read:

71-2013 Applications for hospital construction projects for which federal funds are requested shall be submitted to the ~~director department~~ and may be submitted by the state or any political subdivision thereof or by any public or nonprofit agency authorized to construct and operate a hospital. Each such application shall conform to federal and state requirements.

Sec. 516. Section 71-2014, Reissue Revised Statutes of Nebraska, is amended to read:

71-2014 The ~~director department~~ shall afford to every applicant

for a construction project an opportunity for a fair hearing. If the ~~director, department,~~ after affording reasonable opportunity for development and presentation of applications in the order of relative need, finds that a project application complies with the requirements of section 71-2013 and is otherwise in conformity with the state plan, ~~he shall approve such application shall be approved and shall recommend and forward it be recommended and forwarded~~ to the Surgeon General.

Sec. 517. Section 71-2015, Reissue Revised Statutes of Nebraska, is amended to read:

71-2015 From time to time the ~~director department~~ shall inspect each construction project approved by the Surgeon General and, if the inspection so warrants, the ~~director department~~ shall certify to the Surgeon General that work has been performed upon the project, or purchases have been made, in accordance with the approved plans and specifications, and that payment of an installment of federal funds is due to the applicant.

Sec. 518. Section 71-2081, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2081 For each hospital uniform billing form on which a diagnosis code for the external cause of an injury, poisoning, or adverse effect is entered pursuant to section 71-2080, each hospital in this state ~~may shall~~ submit data to the Department of Health and Human Services. ~~Regulation and Licensure beginning January 1, 1994, and shall submit data to the department beginning January 1, 1995.~~ Such data shall be submitted quarterly and shall include, but not be limited to, the diagnosis code for the external cause of an injury, poisoning, or adverse effect, other diagnosis codes, the procedure codes, admission date, discharge date, disposition code, and demographic data to include, but not be limited to, the birthdate, sex, city and county of residence, and zip code of residence for every patient discharged from a hospital, receiving outpatient services, or released from observation for whom a diagnosis code for the external cause of an injury, poisoning, or adverse effect is recorded pursuant to section 71-2080. This data shall be submitted to the department in written or computer form. The data provided to the department under this section shall be classified for release as determined by the department only in aggregate data reports created by the department. Such aggregate data reports shall be considered public documents.

Sec. 519. Section 71-2082, Reissue Revised Statutes of Nebraska, is amended to read:

71-2082 The Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt and promulgate rules and regulations governing the recordation, acquisition, compilation, and dissemination of all data collected pursuant to sections 71-2078 to 71-2082.

Sec. 520. Section 71-2084, Reissue Revised Statutes of Nebraska, is amended to read:

71-2084 For purposes of sections 71-2084 to 71-2096:

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

~~(2) Director means the Director of Regulation and Licensure; and~~

~~(3) (2) Health care facility means a health care facility subject to licensing under the Health Care Facility Licensure Act.~~

Sec. 521. Section 71-2086, Reissue Revised Statutes of Nebraska, is amended to read:

71-2086 (1) The department shall file the petition for the appointment of a receiver provided for in section 71-2085 in the district court of the county where the health care facility is located and shall request that a receiver be appointed for the health care facility.

(2) The court shall expeditiously hold a hearing on the petition within seven days after the filing of the petition. The ~~director department~~ shall present evidence at the hearing in support of the petition. The licensee, owner, or operator may also present evidence, and both parties may subpoena witnesses. The court may appoint a temporary receiver for the health care facility ex parte if the ~~director, department,~~ by affidavit, states that an emergency exists which presents an imminent danger of death or physical harm to the residents or patients of the health care facility. If a temporary receiver is appointed, notice of the petition and order shall be served on the licensee, owner, operator, or administrator of the health care facility within seventy-two hours after the entry of the order. The petition and order may be served by any method specified in section 25-505.01 or the court may permit substitute or constructive service as provided in section 25-517.02 when service cannot be made with reasonable diligence by any of the methods specified in section 25-505.01. A hearing on the petition and temporary order shall be held within seventy-two hours after notice has been served unless the licensee, owner, or operator consents to a later date. After the hearing

the court may terminate, continue, or modify the temporary order. If the court determines that the department did not have probable cause to submit the affidavit in support of the appointment of the temporary receiver, the court shall have the jurisdiction to determine and award compensatory damages against the state to the owner or operator. If the licensee, owner, or operator informs the court at or before the time set for hearing that he or she does not object to the petition, the court shall waive the hearing and at once appoint a receiver for the health care facility.

(3) The purpose of a receivership created under this section is to safeguard the health, safety, and continuity of care of residents and patients and to protect them from adverse health effects. A receiver shall not take any actions or assume any responsibilities inconsistent with this purpose. No person shall impede the operation of a receivership created under this section. After the appointment of a receiver, there shall be an automatic stay of any action that would interfere with the functioning of the health care facility, including, but not limited to, cancellation of insurance policies executed by the licensee, owner, or operator, termination of utility services, attachments or setoffs of resident trust funds or working capital accounts, and repossession of equipment used in the health care facility. The stay shall not apply to any licensure, certification, or injunctive action taken by the department.

Sec. 522. Section 71-2096, Reissue Revised Statutes of Nebraska, is amended to read:

71-2096 (1) Any person who prevents or interferes with or attempts to impede in any way any duly authorized representative of the department in the lawful enforcement of sections 71-2084 to 71-2096 shall be guilty of a Class IV misdemeanor. For purposes of this subsection, lawful enforcement includes, but is not limited to, (a) contacting or interviewing any resident or patient of a health care facility in private at any reasonable hour and without advance notice, (b) examining any relevant books or records of a health care facility, or (c) preserving evidence of any violations of sections 71-2084 to 71-2096.

(2) The county attorney of the county in which the health care facility is located or the Attorney General may be requested by the director department to initiate prosecution.

Sec. 523. Section 71-2097, Reissue Revised Statutes of Nebraska, is amended to read:

71-2097 For purposes of sections 71-2097 to 71-20,101:

(1) Civil penalties include any remedies required under federal law and include the imposition of monetary penalties;

(2) Department means the Department of Health and Human Services;

~~(2)~~ (3) Federal regulations for participation in the medicaid program means the regulations found in 42 C.F.R. parts 442 and 483, as amended, for participation in the medicaid program under Title XIX of the federal Social Security Act, as amended; and

~~(3)~~ (4) Nursing facility means any intermediate care facility or nursing facility, as defined in sections 71-420 and 71-424, which receives federal and state funds under Title XIX of the federal Social Security Act, as amended.

Sec. 524. Section 71-2098, Reissue Revised Statutes of Nebraska, is amended to read:

71-2098 (1) ~~The Department of Health and Human Services Finance and Support department~~ department may assess, enforce, and collect civil penalties against a nursing facility which the ~~Department of Health and Human Services Regulation and Licensure department~~ department has found in violation of federal regulations for participation in the medicaid program pursuant to the authority granted to the ~~Department of Health and Human Services Regulation and Licensure department~~ department under section 81-604.03.

(2) If the ~~Department of Health and Human Services Regulation and Licensure department~~ department finds that a violation is life threatening to one or more residents or creates a direct threat of serious adverse harm to one or more residents, a civil penalty shall be imposed for each day the deficiencies which constitute the violation exist. The ~~Department of Health and Human Services Finance and Support department~~ department may assess an appropriate civil penalty for other violations based on the nature of the violation. Any monetary penalty assessed shall not be less than fifty dollars nor more than ten thousand dollars for each day the facility is found to be in violation of such federal regulations. Monetary penalties assessed shall include interest at the rate specified in section 45-104.02, as such rate may from time to time be adjusted.

Sec. 525. Section 71-2099, Reissue Revised Statutes of Nebraska, is amended to read:

71-2099 ~~The Department of Health and Human Services Finance and Support department~~ shall adopt criteria for determining the type and amount of the civil penalty assessed under section 71-2098. Such criteria shall include, but need not be limited to, consideration of the following factors:

- (1) The period of time over which the violation occurred;
- (2) The frequency of the violation;
- (3) The nursing facility's history concerning the type of violation for which the civil penalty is assessed;
- (4) The nursing facility's intent or reason for the violation;
- (5) The effect, if any, of the violation on the health, safety, security, or welfare of the residents;
- (6) The existence of other violations, in combination with the violation for which the civil penalty is assessed, which increase the threat to the health, safety, security, rights, or welfare of the residents;
- (7) The accuracy, thoroughness, and availability of records regarding the violation, which the nursing facility is required to maintain; and
- (8) The number of additional related violations occurring within the same time span as the violation in question.

Sec. 526. Section 71-20,100, Reissue Revised Statutes of Nebraska, is amended to read:

71-20,100 (1) The Nursing Facility Penalty Cash Fund is created. Monetary penalties collected by the ~~Department of Health and Human Services Finance and Support department~~ pursuant to section 71-2098 shall be remitted to the State Treasurer for credit to such fund. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(2) ~~The Department of Health and Human Services Finance and Support department~~ shall adopt and promulgate rules and regulations which establish circumstances under which the department may distribute funds from the Nursing Facility Penalty Cash Fund to protect the health or property of individuals residing in nursing facilities which the ~~Department of Health and Human Services Regulation and Licensure department~~ has found in violation of federal regulations for participation in the medicaid program. Circumstances considered as a basis for distribution from the fund include paying costs to:

- (a) Relocate residents to other facilities;
- (b) Maintain the operation of a nursing facility pending correction of violations;
- (c) Close a nursing facility; and
- (d) Reimburse residents for personal funds lost.

Sec. 527. Section 71-20,101, Reissue Revised Statutes of Nebraska, is amended to read:

71-20,101 ~~The Department of Health and Human Services Finance and Support department~~ shall adopt and promulgate rules and regulations to carry out sections 71-2097 to 71-20,101, including rules and regulations for notice and appeal procedures.

Sec. 528. Section 71-20,103, Reissue Revised Statutes of Nebraska, is amended to read:

71-20,103 For purposes of the Nonprofit Hospital Sale Act:

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

(2) Hospital has the meaning found in section 71-419;

(3) Acquisition means any acquisition by a person or persons of an ownership or controlling interest in a hospital, whether by purchase, merger, lease, gift, or otherwise, which results in a change of ownership or control of twenty percent or greater or which results in the acquiring person or persons holding a fifty percent or greater interest in the ownership or control of a hospital, but acquisition does not include the acquisition of an ownership or controlling interest in a hospital owned by a nonprofit corporation if the transferee (a) is a nonprofit corporation having a substantially similar charitable health care purpose as the transferor or is a governmental entity, (b) is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code or as a governmental entity, and (c) will maintain representation from the affected community on the local board; and

(4) Person has the meaning found in section 71-5803.12.

Sec. 529. Section 71-20,113, Reissue Revised Statutes of Nebraska, is amended to read:

71-20,113 Any acquisition of a hospital before April 16, 1996, and any acquisition in which an application for a certificate of need under the Nebraska Health Care Certificate of Need Act has been granted by the ~~department~~ Department of Health and Human Services Regulation and Licensure

before April 16, 1996, is not subject to the Nonprofit Hospital Sale Act.

Sec. 530. Section 71-2201, Reissue Revised Statutes of Nebraska, is amended to read:

71-2201 There is created a Maternal and Child Health and Public Health Work Fund in the treasury of the State of Nebraska, to be administered by the ~~Director~~ Department of Health and Human Services for maternal and child health and for public health work, as provided by law. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 531. Section 71-2202, Reissue Revised Statutes of Nebraska, is amended to read:

71-2202 The ~~Director~~ Department of Health and Human Services shall administer the fund for maternal and child health and public health services throughout the State of Nebraska. Seventy-five percent of the fund shall be used for maternal and child health activities in this state, and twenty-five percent shall be used for public health work, if such amounts are needed therefor.

Sec. 532. Section 71-2203, Reissue Revised Statutes of Nebraska, is amended to read:

71-2203 Disbursements from the fund referred to in section 71-2201 shall be made upon vouchers signed by ~~the Director~~ an authorized representative of the Department of Health and Human Services and warrants approved by the Director of Administrative Services.

Sec. 533. Section 71-2207, Reissue Revised Statutes of Nebraska, is amended to read:

71-2207 The funds allocated for maternal and child health in this state shall be used and distributed subject to the supervision of the ~~Director~~ Department of Health and Human Services: (1) For promoting the health of mothers and children, especially in rural areas, suffering from some economic distress; (2) for the establishment, extension, and improvement of local maternal and child health services to be administered by local child health units; and (3) for demonstration services in needy areas and among groups in special need. The ~~director~~ department shall also cooperate with licensed physicians and surgeons and with nursing and welfare groups and organizations for the purposes herein expressed.

Sec. 534. Section 71-2208, Reissue Revised Statutes of Nebraska, is amended to read:

71-2208 The ~~Director~~ Department of Health and Human Services shall make quarterly or more frequent reports of the administration of sections 71-2205 to 71-2208, and all expenditures thereunder, to the Chief of the Children's Bureau of the United States Department of Labor, and shall comply with requests for information from the Secretary of Labor of the United States or his or her agencies, if federal funds are granted to this state for the purposes mentioned in such sections.

Sec. 535. Section 71-2304, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2304 (1) The Legislature shall appropriate funds to create a coordinated program of education and treatment for individuals that participate in prostitution-related activities as described in section 28-801.

(2) The Department of Health and Human Services, ~~Finance and Support~~, in consultation with the regional behavioral health authorities, shall distribute funds to regional behavioral health authorities that can demonstrate to the department a high incidence of prostitution within the behavioral health region. The department may consider the following criteria for regional behavioral health funding under this section:

(a) The number of criminal convictions for prostitution-related activities within the counties that comprise the regional behavioral health authority;

(b) Evidence that prostitution-related activities are impacting residential areas and businesses and the quality of life of residents in such areas and businesses is negatively impacted;

(c) The amount of local law enforcement resources devoted specifically to curtailing prostitution-related activity;

(d) Evidence that the regional behavioral health authorities consulted with recognized neighborhood and business associations within geographic proximity to concentrated areas of prostitution; and

(e) The amount of local subdivision treatment funding.

Each regional behavioral health authority may contract with qualifying public, private, or nonprofit entities for the provision of such education and treatment. Such qualifying entities may obtain additional funding from cities and counties to provide a coordinated program of treatment

and education for individuals that participate in prostitution-related activities.

Sec. 536. Section 71-2305, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2305 The Department of Health and Human Services ~~Finance and Support~~ shall adopt and promulgate rules and regulations to carry out the Nebraska Prostitution Intervention and Treatment Act.

Sec. 537. Section 71-2407, Reissue Revised Statutes of Nebraska, is amended to read:

71-2407 (1) Any person operating a mail service pharmacy outside of the State of Nebraska shall obtain a mail service pharmacy license prior to shipping, mailing, or in any manner delivering dispensed prescription drugs as defined in section 71-1,142 into the State of Nebraska.

(2) To be qualified to hold a mail service pharmacy license, a person shall:

(a) Hold a pharmacy license or permit issued by and valid in the state in which the person is located and from which such prescription drugs will be shipped, mailed, or otherwise delivered;

(b) Be located and operating in a state in which the requirements and qualifications for obtaining and maintaining a pharmacy license or permit are considered by the Department of Health and Human Services, ~~Regulation and Licensure~~, with the approval of the Board of Pharmacy, to be substantially equivalent to the requirements of the Health Care Facility Licensure Act;

(c) Designate the Secretary of State as his, her, or its agent for service of process in this state; and

(d) Employ on a full-time basis at least one pharmacist who holds a current unrestricted pharmacist license issued under the Uniform Licensing Law who shall be responsible for compliance by the mail service pharmacy with the Mail Service Pharmacy Licensure Act. The mail service pharmacy shall notify the department when such pharmacist is no longer employed by such pharmacy.

(3) To obtain a mail service pharmacy license, a person shall:

(a) File an application on a form developed by the department; and

(b) Pay a fee equivalent to the fee for a pharmacy license in the State of Nebraska pursuant to section 71-434.

(4) This section does not apply to prescription drugs mailed, shipped, or otherwise delivered by a pharmaceutical company to a laboratory for the purpose of conducting clinical research.

Sec. 538. Section 71-2408, Reissue Revised Statutes of Nebraska, is amended to read:

71-2408 (1) The Department of Health and Human Services, ~~Regulation and Licensure~~, after notice and an opportunity for a hearing, may deny, refuse renewal of, revoke, or otherwise discipline or restrict the license of a mail service pharmacy for (a) any discipline of the pharmacy license held by such pharmacy in another state pursuant to subdivision (2)(a) of section 71-2407, (b) any violation of the Mail Service Pharmacy Licensure Act or rules and regulations adopted and promulgated under the act, or (c) conduct by such pharmacy which in this state presents a threat to the public health and safety or a danger of death or physical harm.

(2) The department, upon the recommendation of the Board of Pharmacy, shall notify the Attorney General of any possible violations of the Mail Service Pharmacy Licensure Act. If the Attorney General has reason to believe that an out-of-state person is operating in violation of the act, he or she shall commence an action in the district court of Lancaster County to enjoin any such person from further mailing, shipping, or otherwise delivering prescription drugs into the State of Nebraska.

Sec. 539. Section 71-2409, Reissue Revised Statutes of Nebraska, is amended to read:

71-2409 The Department of Health and Human Services ~~Regulation and Licensure~~ shall, upon the recommendation of the Board of Pharmacy, adopt and promulgate rules and regulations necessary to carry out the Mail Service Pharmacy Licensure Act.

Sec. 540. Section 71-2411, Reissue Revised Statutes of Nebraska, is amended to read:

71-2411 For purposes of the Emergency Box Drug Act:

(1) Authorized personnel shall mean any medical doctor, doctor of osteopathy, registered nurse, licensed practical nurse, pharmacist, or physician's assistant;

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

(3) Drug shall mean any prescription drug or device or legend drug or device defined under section 71-1,142, any nonprescription drug as defined under section 71-1,142, any controlled substance as defined under section



28-405, or any device as defined under section 71-1,142;

(4) Emergency box drugs shall mean drugs required to meet the immediate therapeutic needs of patients when the drugs are not available from any other authorized source in time to sufficiently prevent risk of harm to such patients by the delay resulting from obtaining such drugs from such other authorized source;

(5) Institution shall mean an intermediate care facility, an intermediate care facility for the mentally retarded, a mental health center, a nursing facility, and a skilled nursing facility, as such terms are defined in sections 71-420, 71-421, 71-423, 71-424, and 71-429;

(6) Institutional pharmacy shall mean the physical portion of an institution engaged in the compounding, dispensing, and labeling of drugs which is operating pursuant to a pharmacy license issued by the department under the Health Care Facility Licensure Act;

(7) Multiple dose vial shall mean any bottle in which more than one dose of a liquid drug is stored or contained; and

(8) Supplying pharmacist shall mean the pharmacist in charge of an institutional pharmacy or a pharmacist who provides emergency box drugs to an institution pursuant to the Emergency Box Drug Act. Supplying pharmacist shall not include any agent or employee of the supplying pharmacist who is not a pharmacist.

Sec. 541. Section 71-2423, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2423 For purposes of the Cancer Drug Repository Program Act:

(1) Cancer drug means a prescription drug used to treat (a) cancer or its side effects or (b) the side effects of a prescription drug used to treat cancer or its side effects;

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

(3) Health care facility has the definition found in section 71-413;

(4) Health clinic has the definition found in section 71-416;

(5) Hospital has the definition found in section 71-419;

(6) Participant means a physician's office, pharmacy, hospital, or health clinic that has elected to voluntarily participate in the program and that accepts donated cancer drugs under the rules and regulations adopted and promulgated by the department for the program;

(7) Pharmacy has the definition found in section 71-425;

(8) Physician's office means the office of a person licensed to practice medicine and surgery or osteopathic medicine and surgery;

(9) Prescribing practitioner means a health care practitioner licensed under the Uniform Licensing Law who is authorized to prescribe cancer drugs;

(10) Prescription drug has the definition found in section 71-1,142; and

(11) Program means the cancer drug repository program established pursuant to section 71-2424.

Sec. 542. Section 71-2431, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2431 (1) Prescription drugs or devices which have been delivered to a community health center for dispensing to a patient of such health center pursuant to a valid prescription, but which are not dispensed or administered to such patient, may be delivered to a pharmacist or pharmacy under contract with the community health center for relabeling and redispensing to another patient of such health center pursuant to a valid prescription, ~~except that~~ if:

(a) The decision to accept delivery of the drug or device for relabeling and redispensing ~~shall rest~~ rests solely with the contracting pharmacist or pharmacy;

(b) The drug or device ~~shall have~~ has been in the control of the community health center at all times;

(c) The drug or device ~~shall be~~ is in the original and unopened labeled container with a tamper-evident seal intact. Such container shall bear the expiration date or calculated expiration date and lot number; and

(d) The relabeling and redispensing is not otherwise prohibited by law.

(2) For purposes of this section:

(a) Administer has the definition found in section 71-1,142;

(b) Calculated expiration date has the definition found in section 71-1,147.53;

(c) Community health center means a community health center established pursuant to the Health Centers Consolidation Act of 1996, 42 U.S.C. 201 et seq., as such act existed on May 7, 2005;

- (d) Deliver or delivery has the definition found in section 71-1,142;
- (e) Dispense or dispensing has the definition found in section 71-1,142;
- (f) Prescription has the definition found in section 71-1,142; and
- (g) Prescription drug or device has the definition found in section 71-1,142.

(3) The Department of Health and Human Services, ~~Regulation and Licensure~~, in consultation with the Board of Pharmacy, may adopt and promulgate rules and regulations to carry out this section.

Sec. 543. Section 71-2432, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2432 For purposes of sections 71-2432 to 71-2435:

(1) Clandestine drug lab means any area where glassware, heating devices, or other equipment or precursors, solvents, or related articles or reagents are used to unlawfully manufacture methamphetamine;

(2) Contaminated property means an enclosed area of any property or portion thereof intended for human habitation or use which has been contaminated by chemicals, chemical residue, methamphetamine, methamphetamine residue, or other substances from a clandestine drug lab;

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

(4) Law enforcement agency has the meaning found in section 81-1401;

(5) Local public health department has the meaning found in section 71-1626;

(6) Methamphetamine means methamphetamine, its salts, optical isomers, and salts of its isomers; and

(7) Rehabilitate or rehabilitation means all actions necessary to ensure that contaminated property is safe for human habitation or use.

Sec. 544. Section 71-2437, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2437 For purposes of the Immunosuppressant Drug Repository Program Act:

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

(2) Immunosuppressant drug means anti-rejection drugs that are used to reduce the body's immune system response to foreign material and inhibit a transplant recipient's immune system from rejecting a transplanted organ. Immunosuppressant drugs are available only as prescription drugs and come in tablet, capsule, and liquid forms. The recommended dosage depends on the type and form of immunosuppressant drug and the purpose for which it is being used. Immunosuppressant drug does not include drugs prescribed for inpatient use;

(3) Participant means a transplant center that has elected to voluntarily participate in the program, that has submitted written notification to the department of its intent to participate in the program, and that accepts donated immunosuppressant drugs under the rules and regulations adopted and promulgated by the department for the program;

(4) Prescribing practitioner means a health care practitioner licensed under the Uniform Licensing Law who is authorized to prescribe immunosuppressant drugs;

(5) Prescription drug has the definition found in section 71-1,142;

(6) Program means the immunosuppressant drug repository program established pursuant to section 71-2438;

(7) Transplant center means a hospital that operates an organ transplant program, including qualifying patients for transplant, registering patients on the national waiting list, performing transplant surgery, and providing care before and after transplant; and

(8) Transplant program means the organ-specific facility within a transplant center. A transplant center may have transplant programs for the transplantation of hearts, lungs, livers, kidneys, pancreata, or intestines.

Sec. 545. Section 71-2503, Reissue Revised Statutes of Nebraska, is amended to read:

71-2503 Every person who disposes of or sells at retail or furnishes any of the poisons in section 71-2501 or any other poisons which the Department of Health and Human Services ~~Regulation and Licensure~~ may from time to time designate, as provided in section 71-2506, shall, before delivery, enter in a book kept for that purpose, to be known as the Poison Register, the date of sale, the name and address of the purchaser, the name and quantity of the poison, the purpose for which it is purchased, and the name of the dispenser, and such record shall be signed by the person to whom the poison is delivered. Such record shall be kept in the form prescribed by the department, and the book containing the same must be always open for inspection by the

proper authorities, and must be preserved for at least two years after the last entry.

Sec. 546. Section 71-2506, Reissue Revised Statutes of Nebraska, is amended to read:

71-2506 Whenever, in the judgment of the ~~Director of Regulation and Licensure, Department of Health and Human Services,~~ it shall become necessary for the protection of the public, to add any poison, not specifically enumerated in section 71-2501, the ~~Department of Health and Human Services Regulation and Licensure~~ department shall have printed a revised schedule of all poisons coming under section 71-2501. The department shall forward by mail one copy to each person registered upon its books and to every person applying for same, and the revised schedule shall carry an effective date for the new poisons added. No poison shall be added by the ~~director~~ department under this section unless the same shall be as toxic in its effect as any of the poisons enumerated under section 71-2501. Whenever the ~~director~~ department shall propose to bring any additional poisons under such section, the proposal shall be set down for hearing. At least ten days' notice of such hearing shall be given by the ~~director~~ department. The notice shall designate the poison to be added and shall state the time and place of the hearing. Such notice shall be given by such means as the ~~director~~ department shall determine to be reasonably calculated to notify the various interested parties. The ~~director~~ department shall have the power to adopt and promulgate such rules and regulations with respect to the conduct of such hearings as may be necessary. Any person aggrieved by any order of the ~~director~~ department passed pursuant to this section may appeal such order, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 547. Section 71-2509, Reissue Revised Statutes of Nebraska, is amended to read:

71-2509 The ~~Director of Regulation and Licensure~~ Department of Health and Human Services may, by regulation, whenever ~~in his or her opinion~~ such action becomes necessary for the protection of the public, prohibit the sale of any poison, subject to the provisions of this section, except upon the original written order or prescription of those practitioners of the healing arts, named in section 71-102, who are duly authorized by law to administer or professionally use those poisons specifically named in section 71-2501. Whenever in the opinion of the ~~director~~ department it is in the interest of the public health, ~~he or she~~ the department is empowered to adopt rules and regulations, not inconsistent with the provisions of sections 71-2501 to 71-2511, further restricting or prohibiting the retail sale of any poison. The rules and regulations must be applicable to all persons alike, and it shall be the duty of the ~~director~~ department, upon request, to furnish any person, authorized by sections 71-2501 to 71-2511 to sell or dispense any poisons, with a list of all articles, preparations, and compounds the sale of which is prohibited or regulated by ~~said~~ such sections.

Sec. 548. Section 71-2511, Reissue Revised Statutes of Nebraska, is amended to read:

71-2511 Any person, partnership, limited liability company, association, or corporation violating any of the provisions of sections 71-2502 to 71-2511 or any of the rules or regulations ~~passed~~ adopted and promulgated by the ~~Director of Regulation and Licensure~~ Department of Health and Human Services pursuant to ~~the~~ sections 71-2502 to 71-2511 shall be deemed guilty of a Class V misdemeanor.

Sec. 549. Section 71-2610, Reissue Revised Statutes of Nebraska, is amended to read:

71-2610 ~~(1)~~ The State Board of Health shall advise the Division of Public Health of the Department of Health and Human Services ~~Regulation and Licensure~~ regarding:

~~(a)~~ (1) Rules and regulations for the government of the ~~department~~ division;

~~(b)~~ (2) The policies of the ~~department~~ division as they relate to support provided to the board;

~~(c)~~ (3) The policies of the ~~department~~ division concerning the professions and occupations described in section 71-2610.01;

~~(d)~~ (4) Communication and cooperation among the professional boards; and

~~(e)~~ (5) Plans of organization or reorganization of the ~~department~~ division.

~~(2) Upon request of the Policy Cabinet, the board shall advise them on matters pertaining to public health.~~

Sec. 550. Section 71-2610.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-2610.01 The State Board of Health shall:

(1) Adopt and promulgate rules and regulations for the government of the professions and occupations licensed, certified, registered, or issued permits by the Division of Public Health of the Department of Health and Human Services, Regulation and Licensure, including rules and regulations necessary to implement laws enforced by the ~~department-~~ division. These professions and occupations are those subject to the Advanced Practice Registered Nurse Licensure Act, the Asbestos Control Act, the Certified Registered Nurse Anesthetist Act, the Clinical Nurse Specialist Practice Act, the Licensed Practical Nurse-Certified Act, the Nebraska Certified Nurse Midwifery Practice Act, the Nebraska Cosmetology Act, the Nurse Practice Act, the Nurse Practitioner Act, the Occupational Therapy Practice Act, the Radiation Control Act, the Residential Lead-Based Paint Professions Certification 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;

(2) Serve in an advisory capacity for other rules and regulations adopted and promulgated by the ~~department,~~ division, including those for health care facilities and environmental health services;

(3) Carry out its powers and duties under the Nebraska Regulation of Health Professions Act;

(4) Appoint and remove for cause members of health-related professional boards as provided in sections 71-111, 71-112, and 71-118;

(5) At the discretion of the board, help mediate issues related to the regulation of health care professions except issues related to the discipline of health care professionals; and

(6) Have the authority to participate in the periodic review of the regulation of health care professions.

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

Sec. 551. Section 71-2617, Reissue Revised Statutes of Nebraska, is amended to read:

71-2617 There is hereby created in the Department of Health and Human Services ~~Regulation and Licensure~~ a cash fund to be known as the Health and Human Services Reimbursement Fund. Any money in the Department of Health and Human Services Regulation and Licensure Reimbursement Fund on the operative date of this act shall be transferred to the Health and Human Services Reimbursement Fund. The fund shall be used for payment of services performed for the ~~Department of Health and Human Services Finance and Support department~~ for inspection and licensing of hospitals and nursing homes under Title XIX of the federal Social Security Act. ~~Any money in the Department of Health Reimbursement Fund on January 1, 1997, shall be transferred to the Department of Health and Human Services Regulation and Licensure Reimbursement Fund.~~ Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 552. Section 71-2619, Reissue Revised Statutes of Nebraska, is amended to read:

71-2619 (1) The Department of Health and Human Services ~~Regulation and Licensure~~ may by regulation establish fees to defray the costs of providing specimen containers, shipping outfits, and related supplies and fees to defray the costs of certain laboratory examinations as requested by individuals, firms, corporations, or governmental agencies in the state. Fees for the provision of certain classes of shipping outfits or specimen containers shall be no more than the actual cost of materials, labor, and delivery. Fees for the provision of shipping outfits may be made when no charge is made for service.

(2) Fees may be established by regulation for chemical or microbiological examinations of various categories of water samples. Fees established for examination of water to ascertain qualities for domestic, culinary, and associated uses shall be set to defray no more than the actual cost of the tests in the following categories: (a) Inorganic chemical assays; (b) organic pollutants; and (c) bacteriological examination to indicate sanitary quality as coliform density by membrane filter test or equivalent test.

(3) Fees for examinations of water from lakes, streams, impoundments, or similar sources, from wastewaters, or from ground water for industrial or agricultural purposes may be charged in amounts established by regulation but shall not exceed one and one-half times the limits set by ~~department~~ regulation for examination of domestic waters.

(4) Fees may be established by regulation for chemical or microbiological examinations of various categories of samples to defray no more than the actual cost of testing. Such fees may be charged for:

- (a) Any specimen submitted for radiochemical analysis or characterization;
- (b) Any material submitted for chemical characterization or quantitation; and
- (c) Any material submitted for microbiological characterization.

(5) Fees may be established by regulation for the examinations of certain categories of biological and clinical specimens to defray no more than the actual costs of testing. Such fees may be charged for examinations pursuant to law or ~~departmental~~ regulation of:

- (a) Any specimen submitted for chemical examination for assessment of health status or functional impairment;
- (b) Any specimen submitted for microbiological examination which is not related to direct human contact with the microbiological agent; and
- (c) A specimen submitted for microbiological examination or procedure by an individual, firm, corporation, or governmental unit other than the ~~Department of Health and Human Services Regulation and Licensure~~ department.

(6) The department shall not charge fees for tests that include microbiological isolation, identification examination, or other laboratory examination for the following:

- (a) A contagious disease when the ~~Department of Health and Human Services Regulation and Licensure~~ department is authorized by law or ~~regulations~~ regulation to directly supervise the prevention, control, or surveillance of such contagious disease;
- (b) Any emergency when the health of the people of any part of the state is menaced or exposed pursuant to section 71-502; and
- (c) When adopting or enforcing special quarantine and sanitary regulations authorized by the department.

(7) Combinations of different tests or groups of tests submitted together may be offered at rates less than those set for individual tests as allowed in this section and shall defray the actual costs.

(8) Fees may be established by regulation to defray no more than the actual costs of conducting qualifying inspections in order to make laboratory agreements between the department and laboratories other than the Department of Health and Human Services ~~Regulation and Licensure~~ Laboratory for the purpose of conducting analyses of drinking water as prescribed in section 71-5306. The inspection fees shall be collected on an annual schedule from those laboratories which enter into an agreement with the department for the purpose of conducting laboratory analyses of water. Such fees shall not exceed the amount in the following categories: (a) Bacteriological examination agreement, one hundred and fifty dollars; (b) inorganic chemical analyses agreement, one hundred dollars; (c) heavy metal analyses agreement, two hundred dollars; (d) organic chemical analyses agreement, two hundred dollars; and (e) radiochemical analyses agreement, two hundred dollars.

(9) All fees collected pursuant to this section shall be deposited in the state treasury and credited to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund.

Sec. 553. Section 71-2620, Reissue Revised Statutes of Nebraska, is amended to read:

71-2620 The Department of Health and Human Services ~~Regulation and Licensure~~ may enter into agreements, not exceeding one year in duration, with any other governmental agency relative to the provision of certain laboratory tests and services to the agency. Such services shall be provided as stipulated in the agreement and for such fee, either lump sum or by the item, as is mutually agreed upon and as complies with the provisions of section 71-2619. All laboratories performing human genetic testing for clinical diagnosis and treatment purposes shall be accredited by the College of American Pathologists or by any other national accrediting body or public agency which has requirements that are substantially equivalent to or more comprehensive than those of the college.

Sec. 554. Section 71-2621, Reissue Revised Statutes of Nebraska, is amended to read:

71-2621 All fees collected for laboratory tests and services pursuant to sections 71-2619 and 71-2620 shall be paid into the state treasury and by the State Treasurer credited to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund, which shall be used to partially defray the costs of labor, operations, supplies, and materials in the operations of the Department of Health and Human Services. ~~Regulation and Licensure~~.

Sec. 555. Section 71-2622, Reissue Revised Statutes of Nebraska, is amended to read:

71-2622 The Department of Health and Human Services ~~Regulation and~~

~~Licensure~~ shall collect a fee of not less than sixty nor more than one hundred dollars, as determined by ~~departmental~~ regulation, for each inspection of private water supply or private sewage disposal facilities requested of and made by the department in order for the person requesting the inspection to qualify for any type of commercial loan, guarantee, or other type of payment or benefit from any commercial agency or enterprise to the person applying for or receiving the same or to meet the requirements of any federal governmental agency, including, but not limited to, the Farmers Home Administration, the Federal Housing Administration, and the United States Department of Veterans Affairs, that such an inspection be conducted as a condition of applying for or receiving any type of grant, loan, guarantee, or other type of payment or benefit from such agency to the person applying for or receiving the same. All fees so collected shall be paid into the state treasury and by the State Treasurer credited to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund.

Sec. 556. Section 71-3101, Reissue Revised Statutes of Nebraska, is amended to read:

71-3101 As used in sections 71-3101 to 71-3107, unless the context otherwise requires:

(1) Recreation camp shall mean one or more temporary or permanent tents, buildings, structures, or site pads, together with the tract of land appertaining thereto, established or maintained for more than a forty-eight-hour period as living quarters or sites used for purposes of sleeping or the preparation and the serving of food extending beyond the limits of a family group for children or adults, or both, for recreation, education, or vacation purposes, and including facilities located on either privately or publicly owned lands except hotels or inns;

(2) Person shall mean any individual or group of individuals, association, partnership, limited liability company, or corporation; and

(3) Department shall mean the ~~Department of Health and Human Services, Regulation and Licensure.~~

Sec. 557. Section 71-3102, Reissue Revised Statutes of Nebraska, is amended to read:

71-3102 Before any person shall directly or indirectly operate a recreation camp he or she shall make an application to the department and receive a valid permit for the operation of such camp. Application for such a permit shall be made at least thirty days prior to the proposed operation of the camp and shall be on forms supplied by the department upon request. The application shall be in such form and contain such information as the department may deem necessary to its determination that the recreation camp will be operated and maintained in such a manner as to protect and preserve the health and safety of the persons using the camp and shall be accompanied by an annual fee. The department may establish fees by regulation to defray the actual costs of issuing the permit, conducting inspections, and other expenses incurred by the department in carrying out this section. If the applicant is an individual, the application shall include the applicant's social security number. Where a person operates or is seeking to operate more than one recreation camp, a separate application shall be made for each camp. Such a permit shall not be transferable or assignable. It shall expire one year from the date of its issuance, upon a change of operator of the camp, or upon revocation. If the department finds, after investigation, that the camp or the proposed operation thereof conforms, or will conform, to the minimum standards for recreation camps, a permit on a form prescribed by the department shall be issued for operation of the camp. All fees shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund.

Sec. 558. Section 71-3104, Reissue Revised Statutes of Nebraska, is amended to read:

71-3104 (1) A permit may be temporarily suspended by the ~~Director of Regulation and Licensure~~ department for failure to protect the health and safety of the occupants of the camp, or a failure to comply with the camp regulations prescribed by the department.

(2) A permit may be revoked at any time, after notice and opportunity for a fair hearing held by the ~~Director of Regulation and Licensure, department,~~ if the director finds it is found that the camp for which the permit is issued is maintained or operated in violation of law or of any regulations applicable to a camp or in violation of the conditions stated in the permit. A new permit shall not be issued until the department is satisfied that the camp will be operated in compliance with the law and regulations.

Sec. 559. Section 71-3305, Reissue Revised Statutes of Nebraska, is amended to read:

71-3305 (1) Except as provided in subsection (2) of this section, any political subdivision as defined in section 13-702, that provides the water supply of any city or village for human consumption shall add fluoride to such water supply in the amount and manner prescribed by the rules and regulations of the Department of Health and Human Services, ~~Regulation and Licensure.~~

(2) Fluoride shall not be added to the water supply of any city or village in which the voters have, after September 2, 1973, adopted an ordinance by initiative prohibiting the adding of fluoride to its water supply. The procedure for the adoption of any such ordinance shall be that provided in sections 18-2501 to 18-2536. No such ordinance may be adopted in a city or village receiving, or which has contracted to receive, its water supply, or any part thereof, from another political subdivision, or public or private entity, which adds fluoride to its water supply in compliance with subsection (1) of this section, or section 71-3306, or which has available only purchased fluoridated water with which to supply such city or village.

Sec. 560. Section 71-3306, Reissue Revised Statutes of Nebraska, is amended to read:

71-3306 Any public or private entity not included in section 71-3305 which provides a water supply for human consumption and which is not required to add fluoride to such water supply may add fluoride to such water supply in the amount and manner prescribed by the rules and regulations of the Department of Health and Human Services, ~~Regulation and Licensure.~~

Sec. 561. Section 71-3401, Reissue Revised Statutes of Nebraska, is amended to read:

71-3401 Any person, hospital, sanitarium, nursing home, rest home, or other organization may provide information, interviews, reports, statements, memoranda, or other data relating to the condition and treatment of any person to the Department of Health and Human Services, ~~Regulation and Licensure,~~ the Nebraska Medical Association or any of its allied medical societies, the Nebraska Association of Hospitals and Health Systems, any inhospital staff committee, or any joint venture of such entities to be used in the course of any study for the purpose of reducing morbidity or mortality, and no liability of any kind or character for damages or other relief shall arise or be enforced against any person or organization by reason of having provided such information or material, by reason of having released or published the findings and conclusions of such groups to advance medical research and medical education, or by reason of having released or published generally a summary of such studies.

Sec. 562. Section 71-3402, Reissue Revised Statutes of Nebraska, is amended to read:

71-3402 The Department of Health and Human Services, ~~Regulation and Licensure,~~ the Nebraska Medical Association or any of its allied medical societies, the Nebraska Association of Hospitals and Health Systems, any inhospital staff committee, or any joint venture of such entities shall use or publish the material specified in section 71-3401 only for the purpose of advancing medical research or medical education in the interest of reducing morbidity or mortality, except that a summary of such studies may be released by any such group for general publication. In all events the identity of any person whose condition or treatment has been studied shall be confidential and shall not be revealed under any circumstances.

Sec. 563. Section 71-3406, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3406 (1) The ~~Director~~ chief executive officer of the Department of 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 (a) a physician employed by the ~~Nebraska Health and Human Services System,~~ department, as referred to in section ~~81-3006,~~ who shall be a permanent member and shall serve as the chairperson of the team, (b) a senior staff member with child protective services of the ~~Department of Health and Human Services,~~ department, (c) a forensic pathologist, (d) a law enforcement representative, and (e) 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.

(2) Members shall serve four-year terms with the exception of the chairperson. In the absence of the chairperson, the ~~Director of Health and Human Services~~ chief executive officer may appoint another member of the core team to serve as chairperson.

(3) The team shall not be considered a public body for purposes of the Open Meetings Act. 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. 564. 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~~ Department of 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. 565. Section 71-3502.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-3502.01 The ~~Department of Health and Human Services Regulation and Licensure~~ department may establish an alternative maximum contaminant level for radon in drinking water by establishing a multimedia radon mitigation program as provided under federal law which may include public education, testing, training, technical assistance, remediation grants, and loan or incentive programs. The purpose of the radon mitigation program shall be to achieve health risk reduction benefits equal to or greater than the health risk reduction benefits that would be achieved if each public water system in the state complied with the maximum contaminant level of three hundred picocuries per liter.

Sec. 566. Section 71-3503, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3503 For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to



the Radiation Control Act;

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

(9) ~~Coordinator means the Director of Regulation and Licensure;~~ Administrator means the administrator of radiation control designated pursuant to section 71-3504;

(10) Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

(11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials;

(c) A license issued to a radon measurement specialist, radon measurement technician, radon mitigation specialist, radon mitigation technician, radon measurement business, or radon mitigation business; or

(d) A license issued to a medical radiographer or limited radiographer;

(12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

(13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

(14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision (14) (a) of this section but does not include source material;

(15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

(16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

(17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

(18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material,

and to carry out any other activities to prepare the site for postoperational care;

(19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

(20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

(22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (12)(b) of this section;

(23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner;

(24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

(25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

(26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

(27) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram;

(28) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

(29) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

(30) Limited radiographer means a person licensed to practice medical radiography pursuant to subsection (2) of section 71-3515.01. Limited radiographer does not include a person certified under section 71-176.01;

(31) Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 71-3515.01;

(32) Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects the radiation dose to patients;

(33) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environmental Quality; and

(34) Deliberate misconduct means an intentional act or omission by a person that (a) would intentionally cause a licensee, registrant, or applicant for a license or registration to be in violation of any rule, regulation, or order of or any term, condition, or limitation of any license or registration issued by the department under the Radiation Control Act or (b) constitutes an intentional violation of a requirement, procedure, instruction, contract, purchase order, or policy under the Radiation Control Act by a licensee, a registrant, an applicant for a license or registration, or a contractor or subcontractor of a licensee, registrant, or applicant for a license or registration.

Sec. 567. Section 71-3504, Reissue Revised Statutes of Nebraska, is amended to read:

71-3504 (1) ~~The Director of Regulation and Licensure shall be the coordinator of Department of Health and Human Services shall coordinate radiation control activities and may designate a Director of Radiation Control, an administrator of radiation control.~~ The Director of Regulation and Licensure administrator shall:

(a) Advise the Governor and agencies of the state on matters relating to radiation; and

(b) Coordinate regulatory activities of the state relating to radiation, including cooperation with other states and the federal government.

(2) ~~The Director of Regulation and Licensure administrator shall:~~

(a) Review before and after the holding of any public hearing required under the Administrative Procedure Act, prior to promulgation, the proposed rules and regulations of all agencies of the state relating to use and control of radiation to assure that such rules and regulations are consistent with rules and regulations of other agencies of the state;

(b) When he or she determines that proposed rules or regulations or parts thereof are inconsistent with rules and regulations of other agencies of the state, make an effort to resolve such inconsistencies. Upon notification that such inconsistencies have not been resolved, the Governor may, after consultation with the ~~Director of Regulation and Licensure,~~ department, find that the proposed rules and regulations or parts thereof are inconsistent with rules and regulations of other agencies of the state or the federal government and may issue an order to that effect, in which event the proposed rules and regulations or parts thereof shall not become effective. The Governor may, in the alternative, upon a similar determination, direct the appropriate agency or agencies to amend or repeal existing rules and regulations to achieve consistency with the proposed rules and regulations;

(c) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, interstate agencies, political subdivisions, and other organizations concerned with control of sources of radiation; and

(d) Collect and disseminate information relating to the control of sources of radiation and maintain (i) a file of all registrants, license applications, issuances, denials, amendments, transfers, renewals, modifications, inspections, recommendations pertaining to radiation, suspensions, and revocations, (ii) a file of registrants possessing or using sources of radiation requiring registration under the Radiation Control Act and any administrative or judicial action pertaining to such registration, and (iii) a file of all rules and regulations relating to the regulation of sources of radiation, pending or promulgated, and proceedings on such rules and regulations thereon.

(3) The several agencies of the state and political subdivisions shall keep the ~~coordinator~~ administrator fully and currently informed as to their activities relating to development of new uses and regulation of sources of radiation.

Sec. 568. Section 71-3505, Reissue Revised Statutes of Nebraska, is amended to read:

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

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section 71-3507 or 71-3509 and (b) for registration or licensure of (i) any other source of radiation, (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, (iii) persons providing services to reduce the effects of sources of radiation, (iv) persons practicing medical radiography, and (v) persons practicing industrial radiography, as specified by rule or regulation so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry

out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, medical radiographers, limited radiographers, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

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

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

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

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

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

(7) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual costs of such activities or fifty-three thousand dollars per annum. Commencing July 1, 1997, the accounting division of the Department of Administrative Services shall recommend an inflationary adjustment equivalent which shall be based upon the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, and shall not exceed five percent per annum. Such adjustment shall be applied to the annual fee for nuclear power plants. The fee collected shall be credited to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. This fee shall be used solely for the purpose of defraying the direct costs of the emergency response and environmental surveillance at Cooper Nuclear Station and Fort Calhoun Station conducted by the department. The department may charge additional fees when mutually agreed upon for services, training, or equipment that are a part of or in addition to matters in this section.

Sec. 569. Section 71-3508.03, Reissue Revised Statutes of Nebraska, is amended to read:

71-3508.03 (1) The department shall establish by rule and regulation annual fees for the radioactive materials licenses, for inspections of radioactive materials, for the registration and inspection of radiation-generating equipment and other sources of radiation, and for radon measurement and mitigation business licenses and inspections of radon mitigation systems installations under the Radiation Control Act. The annual fee for registration and inspection of X-ray radiation generating equipment used to diagnose conditions in humans or animals shall not exceed seventy dollars per X-ray machine. The department shall also establish by rule and regulation additional fees for environmental surveillance activities performed by the department to assess the radiological impact of activities conducted by licensees and registrants. Such activities shall not duplicate surveillance programs approved by the federal Nuclear Regulatory Commission and conducted by entities licensed by such commission. No fee shall exceed the actual cost to the department for administering the act. The fees collected shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund and shall be used solely for the purpose of defraying the direct and indirect

costs of administering the act. The department shall collect such fees.

(2) The department may, upon application by an interested person or on its own initiative, grant such exemptions from the requirements of this section as it determines are in the public interest. Applications for exemption under this subsection may include, but shall not be limited to, the use of licensed materials for educational or noncommercial displays or scientific collections.

(3) When a registrant or licensee fails to pay the applicable fee, the department may suspend or revoke the registration or license or may issue an appropriate order.

(4) The department shall establish and collect fees for licenses for individuals engaged in radon detection, measurement, and mitigation as provided in section 71-162.

Sec. 570. Section 71-3508.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-3508.04 (1) For licensed activities involving source material milling, source material mill tailings, and management of low-level radioactive waste, the department shall, and for other classes of licensed activities the department may, adopt and promulgate rules and regulations which establish standards and procedures to ensure that the licensee will provide an adequate surety or other financial arrangement to permit the completion of all requirements established by the department for the licensure, regulation, decontamination, closure, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with such licensed activity in case the licensee should default for any reason in performing such requirements. All sureties required which are forfeited shall be paid to the department and remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. Money in such fund remitted pursuant to this subsection shall be expended by the department as necessary to complete the closure and reclamation requirements and shall not be used for normal operating expenses of the department.

(2) For licensed activities involving the disposal of source material mill tailings and management of low-level radioactive waste, the department shall, and for other classes of licensed activities when radioactive material which will require surveillance or care is likely to remain at the site after the licensed activities cease the department may, adopt and promulgate rules and regulations which establish standards and procedures to ensure that the licensee, before termination of the license, will make available such funding arrangements as may be necessary to provide for long-term site surveillance and care. All such funds collected from licensees shall be paid to the department and remitted to the State Treasurer for credit to the fund. All funds accrued as interest on money credited to the fund pursuant to this subsection may be expended by the department for the continuing long-term surveillance, maintenance, and other care of facilities from which such funds are collected as necessary for protection of the occupational and public health and safety and the environment. If title to and custody of any radioactive material and its disposal site are transferred to the United States upon termination of any license for which funds have been collected for such long-term care, the collected funds and interest accrued thereon shall be transferred to the United States.

(3) The sureties or other financial arrangements and funds required by this section shall be established in amounts sufficient to ensure compliance with standards, if any, established by the department pertaining to licensure, regulation, closure, decommissioning, reclamation, and long-term site surveillance and care of such facilities and sites.

(4) To provide for the proper care and surveillance of sites subject to subsection (2) of this section which are not subject to section 71-3508.01 or 71-3508.02, the state may acquire by gift or transfer from another governmental agency or private person any land and appurtenances necessary to fulfill the purposes of this section. Any such gift or transfer shall be subject to approval and acceptance by the Legislature.

(5) The department may by contract, agreement, lease, or license with any person, including another state agency, provide for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site subject to this section as needed to carry out the purposes of this section.

(6) If a person licensed by any governmental agency other than the department desires to transfer a site to the state for the purpose of administering or providing long-term care, a lump-sum deposit shall be made to the department and remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and

Human Services Cash Fund. The amount of such deposit shall be determined by the department taking into account the factors stated in subsections (1) and (2) of this section.

Sec. 571. Section 71-3513, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

(b) An opportunity for cross-examination; and

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

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

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

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

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

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

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

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

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

Sec. 572. Section 71-3516.01, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3516.01 (1) The department shall keep any source of radiation impounded under section 71-3516 for as long as it is needed as evidence for any hearing.

(2) Prior to the issuance of an order of disposition for an impounded source of radiation, the department shall notify in writing any person, known by the department to claim an interest in the source of radiation, that the department intends to dispose of the source of radiation. Notice shall be served by personal service, by certified or registered mail to the last-known address of the person, or by publication. Notice by

publication shall only be made if personal service or service by mail cannot be effectuated.

(3) Within fifteen days after service of the notice under subsection (2) of this section, any person claiming an interest in the impounded source of radiation may request, in writing, a hearing before the department to determine possession of the source of radiation. The hearing shall be held in accordance with rules and regulations adopted and promulgated by the department. If the department determines that the person claiming an interest in the source of radiation has proven by a preponderance of the evidence that such person (a) had not used or intended to use the source of radiation in violation of the Radiation Control Act, (b) has an interest in the source of radiation acquired in good faith as an owner, a lien holder, or otherwise, and (c) has the authority under the act to possess such source of radiation, the department shall order that possession of the source of radiation be given to such person. If possession of the impounded source of radiation is not given to the person requesting the hearing, such person may appeal the decision of the department, and the appeal shall be in accordance with the Administrative Procedure Act. If possession of the impounded source of radiation is not given to the person so appealing, the department shall order such person to pay for the costs of the hearing, storage fees, and any other reasonable and necessary expenses related to the impounded source of radiation.

(4) If possession of the impounded source of radiation is not given to the person requesting the hearing under subsection (3) of this section, the department shall issue an order of disposition for the source of radiation and shall dispose of the source of radiation as directed in the order. Disposition methods are at the discretion of the department and may include, but are not limited to, (a) sale of the source of radiation to a person authorized to possess the source of radiation under the act, (b) transfer to the manufacturer of the source of radiation, or (c) destruction of the source of radiation. The order of disposition shall be considered a transfer of title of the source of radiation.

(5) If expenses related to the impounded source of radiation are not paid under subsection (3) of this section, the department shall pay such expenses from:

(a) Proceeds from the sale of the source of radiation, if sold; or

(b) Available funds in the ~~Department of Health and Human Services Regulation and Licensure Health and Human Services~~ Health and Human Services Cash Fund.

Sec. 573. Section 71-3517, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) In addition to the penalty provided in subsection (1) of this section, any person who violates any provision of the Radiation Control Act or any rule, regulation, or order issued pursuant to such act or any term, condition, or limitation of any license or registration certificate issued pursuant to such act shall be subject to:

(a) License revocation, suspension, modification, condition, or limitation;

(b) The imposition of a civil penalty; or

(c) The terms of any appropriate order issued by the department.

(3) Whenever the department proposes to subject a person to the provisions of subsection (2) of this section, the department shall notify the person in writing (a) setting forth the date, facts, and nature of each act or omission with which the person is charged, (b) specifically identifying the particular provision or provisions of the section, rule, regulation, order, license, or registration certificate involved in the violation, and (c) of the sanction or order to be imposed. If a civil penalty is imposed, the notice shall include a statement that it can be collected by civil action. The notice shall be delivered to each alleged violator by personal service, by certified or registered mail to his or her last-known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated. The sanction or order in the notice shall become final thirty days after the mailing of the notice unless the applicant, registrant, or licensee, within the thirty-day period, requests, in writing, a hearing before the department. If the notice is served by personal service or publication, the sanction or order shall become final thirty days after completion of such service unless the applicant, registrant, or licensee, within the thirty-day period, requests, in writing, a hearing before the department.

(4) Hearings held pursuant to subsection (3) of this section shall be held in accordance with rules and regulations adopted and promulgated by the department and shall provide for the alleged violator to present such

evidence as may be proper. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations of the department. A full and complete record shall be kept of the proceedings.

(5) Following the hearing, the ~~director~~ department shall determine whether the charges are true or not, and if true, the ~~director~~ department may (a) issue a declaratory order finding the charges to be true, (b) revoke, suspend, modify, condition, or limit the license, (c) impose a civil penalty in an amount not to exceed ten thousand dollars for each violation, or (d) enter an appropriate order. If any violation is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty and the amount of the penalty shall be based on the severity of the violation. A copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either certified or registered mail to the alleged violator. The decision may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

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

Sec. 574. Section 71-3524, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3524 For purposes of sections 71-3523 to 71-3528:

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

(2) High-level radioactive waste has the definition found in section 81-1589; and

(3) Transuranic waste means radioactive waste material containing alpha-emitting radioactive elements, with radioactive half-lives greater than five years, having an atomic number greater than 92 in concentrations in excess of one hundred nanocuries per gram.

Sec. 575. Section 71-3526, Reissue Revised Statutes of Nebraska, is amended to read:

71-3526 The Radiation Transportation Emergency Response Cash Fund is created. The fund shall consist of fees credited pursuant to section 71-3525. The fund shall be used for the purposes stated in such section. The Director-State Engineer, the Superintendent of Law Enforcement and Public Safety, the ~~Director of Regulation and Licensure,~~ chief executive officer of the department, the Adjutant General as director of the Nebraska Emergency Management Agency, and the executive director of the Public Service Commission, or their designees, shall meet at least annually to recommend changes in the fees charged and allocation of the fees collected among participating agencies based upon their respective costs in carrying out such 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. 576. Section 71-3601, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3601 For purposes of the Tuberculosis Detection and Prevention Act:

(1) Communicable tuberculosis means tuberculosis manifested by a laboratory report of sputum or other body fluid or excretion found to contain tubercle bacilli or by chest X-ray findings interpreted as active tuberculosis by competent medical authority;

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

(3) Facility means a structure in which suitable isolation for tuberculosis can be given and which is approved by the department for the detention of recalcitrant tuberculosis persons;

(4) Local health officer means (a) the health director of a local public health department as defined in section 71-1626 or (b) the medical advisor to the board of health of a county, city, or village;

(5) Recalcitrant tuberculous person means a person affected with tuberculosis in an active stage who by his or her conduct or mode of living endangers the health and well-being of other persons, by exposing them to tuberculosis, and who refuses to accept adequate treatment; and

(6) State health officer means ~~the Director of Regulation and~~



~~Licensure~~ of the chief medical officer as described in section ~~81-3201, 6 of this act.~~

Sec. 577. Section 71-3610, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-3610 The expenses incurred in the care, maintenance, and treatment of patients committed under the Tuberculosis Detection and Prevention Act shall be paid from state funds appropriated to the ~~Department of Health and Human Services Finance and Support~~ department for the purpose of entering into agreements with qualified health care facilities so as to provide for the care, maintenance, and treatment of such patients and those other persons having communicable tuberculosis who voluntarily agree to and accept care and treatment.

Sec. 578. Section 71-3702, Reissue Revised Statutes of Nebraska, is amended to read:

71-3702 For purposes of sections 71-3702 to 71-3715, unless the context otherwise requires:

(1) Board ~~shall mean~~ means the Board of Registration for Environmental Health Specialists;

(2) Environmental health specialist ~~shall mean~~ means a person who by education and experience in the physical, biological, and sanitary sciences is qualified to carry out educational, investigational, and technical duties in the field of environmental sanitation;

(3) Registered environmental health specialist ~~shall mean~~ means a person who has the educational requirements and has had experience in the field of environmental sanitation required by section 71-3703 and is registered in accordance with sections 71-3702 to 71-3715;

(4) Trainee ~~shall mean~~ means a person who is qualified by education but does not have at least one full year of experience in the field of environmental sanitation and is registered in accordance with sections 71-3702 to 71-3715;

(5) Certificate of registration ~~shall mean~~ means a document issued as evidence of registration and qualification to practice as an environmental health specialist or trainee under sections 71-3702 to 71-3715, bearing the designation Registered Environmental Health Specialist or Trainee, and showing the name of the person, date of issue, serial number, seal, and signatures of the members of the board authorized to grant such certificates; and

(6) Department ~~shall mean~~ means the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 579. Section 71-3706, Reissue Revised Statutes of Nebraska, is amended to read:

71-3706 The Board of Registration for Environmental Health Specialists shall consist of six members appointed by the State Board of Health. One member shall be a layperson who is at least the age of majority, who has been a resident of the state for at least five years immediately preceding appointment, and who is a representative of consumer viewpoints. Each of the other members shall have been engaged in environmental health for at least ten years, shall have had responsible charge of work for at least five years at the time of his or her appointment, and shall be a registered environmental health specialist. Each member of the Board of Registration for Environmental Health Specialists shall receive as compensation not more than twenty-five dollars per day for each day actually spent in traveling to and from and while attending sessions of the board and its committees, and each member shall also receive the necessary expenses incident to the performance of his or her duties as provided by sections 81-1174 to 81-1177 and subject to section 71-3708.01.

The ~~Department of Health and Human Services Regulation and Licensure~~ department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 580. Section 71-4302, Reissue Revised Statutes of Nebraska, is amended to read:

71-4302 The Department of Health and Human Services ~~Regulation and Licensure~~ shall prepare, adopt, and have printed minimum sanitary and safety requirements in the form of regulations for the design, construction, equipment, and operation of swimming pools and bather preparation facilities. Such requirements shall include, but not be limited to, provisions for waiver or variance of design standards and the circumstances under which such waiver or variance may be granted.

Sec. 581. Section 71-4303, Reissue Revised Statutes of Nebraska, is amended to read:

71-4303 No swimming pool shall be constructed after January 1, 1970, unless and until plans, specifications, and any additional information

relative to such pool as may be requested by the Department of Health and Human Services ~~Regulation and Licensure~~ shall have been submitted to such department and after review by such department found to comply with the minimum sanitary and safety requirements provided in section 71-4302 and a permit for the construction of the pool issued by such department.

Sec. 582. Section 71-4304, Reissue Revised Statutes of Nebraska, is amended to read:

71-4304 After January 1, 1970, swimming pools shall have equipment and shall be operated so as to comply with the minimum sanitary and safety requirements provided in section 71-4302. After such date no swimming pool shall operate until it has received a permit from the Department of Health and Human Services, ~~Regulation and Licensure~~. Application for a permit to operate shall be submitted on forms provided by such department. Swimming pools constructed prior to January 1, 1970, which do not fully comply with the minimum sanitary and safety requirements as regards design and construction may be continued in use for such period as the ~~Department of Health and Human Services Regulation and Licensure~~ department may authorize if the equipment and operation of such swimming pool comply with the minimum sanitary and safety requirements.

Sec. 583. Section 71-4305, Reissue Revised Statutes of Nebraska, is amended to read:

71-4305 (1) The Department of Health and Human Services ~~Regulation and Licensure~~ shall make at least one inspection every year of each swimming pool to determine that such swimming pool complies with the minimum sanitary and safety requirements.

(2) The owner and operator of any swimming pool shall submit such operation and analytical records as may be requested at any time by the department to determine the sanitary and safety condition of the swimming pool.

(3) The department shall adopt and promulgate rules and regulations which classify swimming pools on the basis of criteria deemed appropriate by the department. The department shall charge engineering firms, swimming pool owners, and other appropriate parties fees established by rules and regulations for the review of plans and specifications of a swimming pool, the issuance of a license or permit, the inspection of a swimming pool, and any other services rendered at a rate which defrays no more than the actual cost of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure. All fees collected under this subsection shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. The department shall not charge a municipal corporation an inspection fee for an inspection of a swimming pool owned by such municipal corporation.

(4) The department shall establish and collect fees for certificates of competency for swimming pool operators as provided in section 71-162.

Sec. 584. Section 71-4306, Reissue Revised Statutes of Nebraska, is amended to read:

71-4306 Whenever any duly authorized representative of the Department of Health and Human Services ~~Regulation and Licensure~~ shall find that a swimming pool is being constructed, equipped, or operated in violation of any of the provisions of sections 71-4301 to 71-4307, the department may grant such time as in its opinion may reasonably be necessary for changing the construction or providing for the proper operation of the swimming pool to meet the provisions of sections 71-4301 to 71-4307. If and when the duly authorized representative of the department upon inspection and investigation of a swimming pool considers that the conditions are such as to warrant prompt closing of such swimming pool until the provisions of sections 71-4301 to 71-4307 are complied with, he or she shall notify the owner or operator of the swimming pool to prohibit any person from using the swimming pool and upon such notification to the sheriff and the county attorney of the county in which such pool is located, it shall be the duty of such county attorney and sheriff to see that the notice of the representative of the department shall be enforced. If and when the owner or operator of the pool has, in the opinion of the department, met the provisions of sections 71-4301 to 71-4307, the department may in writing authorize the use again of such swimming pool.

Sec. 585. Section 71-4401, Reissue Revised Statutes of Nebraska, is amended to read:

71-4401 For purposes of sections 71-4401 to 71-4412, unless the context otherwise requires:

(1) Domestic animal shall mean any dog or cat, and cat shall mean a cat which is a household pet;

(2) Vaccination against rabies shall mean the inoculation of a

domestic animal with a rabies vaccine as approved by the rules and regulations adopted and promulgated by the ~~Department of Health and Human Services Regulation and Licensure~~, department. Such vaccination shall be performed by a veterinarian duly licensed to practice veterinary medicine in the State of Nebraska;

(3) Compendium shall mean the compendium of animal rabies vaccine as provided by the National Association of State Public Health Veterinarians;

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

(5) Own, unless otherwise specified, shall mean to possess, keep, harbor, or have control of, charge of, or custody of a domestic animal. This term shall not apply to domestic animals owned by other persons which are temporarily maintained on the premises of a veterinarian or kennel operator for a period of not more than thirty days;

(6) Owner shall mean any person possessing, keeping, harboring, or having charge or control of any domestic animal or permitting any domestic animal to habitually be or remain on or be lodged or fed within such person's house, yard, or premises. This term shall not apply to veterinarians or kennel operators temporarily maintaining on their premises domestic animals owned by other persons for a period of not more than thirty days; and

(7) Rabies control authority shall mean county, township, city, or village health and law enforcement officials who shall enforce sections 71-4401 to 71-4412 relating to the vaccination and impoundment of domestic animals. Such public officials shall not be responsible for any accident or disease of a domestic animal resulting from the enforcement of such sections.

Sec. 586. Section 71-4621, Reissue Revised Statutes of Nebraska, is amended to read:

71-4621 As used in the Uniform Standard Code for Mobile Home Parks, unless the context otherwise requires:

(1) Mobile home ~~shall mean~~ means a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit. Mobile home includes ~~and shall include~~ a manufactured home as defined in section 71-4603;

(2) Mobile home lot ~~shall mean~~ means a designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants;

(3) Mobile home park ~~shall mean~~ means a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, or other structures temporarily maintained by any individual, corporation, limited liability company, company, or other entity on its own premises and used exclusively to house its own labor force;

(4) Department ~~shall mean~~ means the Department of Health and Human Services; ~~and Regulation and Licensure~~; and

(5) Person ~~shall mean~~ means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity, and ~~shall include~~ includes any trustee, receiver, assignee, or other legal representative thereof.

Sec. 587. Section 71-4624, Reissue Revised Statutes of Nebraska, is amended to read:

71-4624 (1) The application for the first or initial annual license shall be submitted with the requirements mentioned in section 71-4623 accompanied by the appropriate fees. The ~~Department of Health and Human Services Regulation and Licensure~~ department by regulation shall charge engineering firms, mobile home park owners and operators, and other appropriate parties fees established by regulation for the review of plans and specifications of a mobile home park, the issuance of a license or permit, the inspection of a mobile home park, and any other services rendered at a rate which defrays no more than the actual costs of the services provided. All fees shall be paid as a condition of annual renewal of licensure or of continuance of licensure.

(2) All fees collected by the department shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the Uniform Standard Code for Mobile Home Parks.

(3) When any application is received, the department shall cause the mobile home park and appurtenances to be inspected by representatives of the department. When such inspection has been made and the department finds that all of the provisions of the Uniform Standard Code for Mobile Home Parks and the rules, regulations, and standards of the department have been met by the applicant, the department shall issue an annual license. Inspection by the department or its authorized representatives at any time of a mobile home park shall be a condition of continued licensure.

Sec. 588. Section 71-4635, Reissue Revised Statutes of Nebraska, is amended to read:

71-4635 The Department of Health and Human Services ~~Regulation and Licensure~~ may request the State Fire Marshal to inspect for fire safety any mobile home park for which a license or renewal of a license is sought, pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01 and payable by the licensee or applicant for a license. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502.

Sec. 589. Section 71-4701, Reissue Revised Statutes of Nebraska, is amended to read:

71-4701 As used in sections 71-4701 to 71-4719, unless the context otherwise requires:

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

(2) License shall mean a license issued by the state under such sections to hearing aid instrument dispensers and fitters;

(3) Temporary license shall mean a license issued while the applicant is in training to become a licensed hearing aid instrument dispenser and fitter;

(4) Board shall mean the Board of Hearing Aid Instrument Dispensers and Fitters;

(5) Hearing aid shall mean any wearable instrument or device designed for or offered for the purpose of aiding or compensating for impaired human hearing and any parts, attachments, or accessories, including earmold, but excluding batteries and cords. A hearing aid shall also be known as a hearing instrument;

(6) Practice of fitting hearing aids shall mean the measurement of human hearing by means of an audiometer or by other means approved by the board solely for the purpose of making selections, adaptations, or sale of hearing aids. The term also includes the making of impressions for earmolds. A dispenser, at the request of a physician or a member of related professions, may make audiograms for the professional's use in consultation with the hard-of-hearing; and

(7) Sell, sale, or dispense shall mean any transfer of title or of the right to use by lease, bailment, or any other contract, excluding (a) wholesale transactions with distributors or dispensers and (b) distribution of hearing aids by nonprofit service organizations at no cost to the recipient for the hearing aid.

Sec. 590. Section 71-4728.05, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4728.05 (1) The commission shall appoint the Interpreter Review Board as required in section 20-156.

~~(2) Until July 14, 2006, the board shall consist of the following members, of whom the majority shall have knowledge of sign language:~~

~~(a) The Director of Health and Human Services or his or her designee;~~

~~(b) The executive director of the commission or his or her designee;~~

~~(c) Two deaf or hard of hearing persons;~~

~~(d) Two licensed interpreters; and~~

~~(e) Two members representing local government.~~

~~(3) (2) Members of the Interpreter Review Board serving on July 14, 2006, shall have their terms extended to June 30, 2007. After that date, membership on the board shall be as follows:~~

~~(a) The Director of Health and Human Services or his or her designee~~  
A representative of the Department of Health and Human Services and the executive director of the commission or his or her designee, both of whom shall serve continuously and without limitation;

~~(b) One qualified interpreter, appointed for a term to expire on June 30, 2008;~~

~~(c) One representative of local government, appointed for a term to expire on June 30, 2008;~~

~~(d) One deaf or hard of hearing person, appointed for a term to~~

expire on June 30, 2009;

(e) One qualified interpreter, appointed for a term to expire on June 30, 2009;

(f) One deaf or hard of hearing person, appointed for a term to expire on June 30, 2010; and

(g) One representative of local government, appointed for a term to expire on June 30, 2010.

~~(4)~~ (3) Upon the expiration of the terms described in subsection ~~(3)~~ (2) of this section, members other than those identified in subdivision ~~(3)(a)~~ (2)(a) of this section shall be appointed for terms of three years. No such member may serve more than two consecutive three-year terms beginning June 30, 2007, except that members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

~~(5)~~ (4) The commission may remove a member of the board for inefficiency, neglect of duty, or misconduct in office after delivering to such member a copy of the charges and a public hearing in accordance with the Administrative Procedure Act. If a vacancy occurs on the board, the commission shall appoint another member with the same qualifications as the vacating member to serve the remainder of the term. The members of the board shall receive no compensation but shall be reimbursed for their actual and necessary expenses, as provided in sections 81-1174 to 81-1177, in attending meetings of the commission and in carrying out their official duties as provided in this section and section 20-156.

~~(6)~~ (5) The board shall establish policies, standards, and procedures for evaluating and licensing interpreters, including, but not limited to, testing, training, issuance, renewal, and denial of licenses, continuing education and continuing competency assessment, investigation of complaints, and disciplinary actions against a license pursuant to section 20-156.

Sec. 591. Section 71-4737, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4737 The Legislature recognizes that it is necessary to track newborns and infants identified with a potential hearing loss or who have been evaluated and have been found to have a hearing loss for a period of time in order to render appropriate followup care. The Department of Health and Human Services ~~Regulation and Licensure~~ shall determine and implement the most appropriate system for this state which is available to track newborns and infants identified with a hearing loss. It is the intent of the Legislature that the tracking system provide the department and Legislature with the information necessary to effectively plan and establish a comprehensive system of developmentally appropriate services for newborns and infants who have a potential hearing loss or who have been found to have a hearing loss and shall reduce the likelihood of associated disabling conditions for such newborns and infants.

Sec. 592. Section 71-4738, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4738 The Department of Health and Human Services ~~Regulation and Licensure~~ shall apply for all available federal funding to implement the Infant Hearing Act.

Sec. 593. Section 71-4739, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4739 (1) Every birthing facility shall annually report to the Department of Health and Human Services ~~Regulation and Licensure~~ the number of:

- (a) Newborns born;
- (b) Newborns and infants recommended for a hearing screening test;
- (c) Newborns who received a hearing screening test during birth admission;
- (d) Newborns who passed a hearing screening test during birth admission if administered;
- (e) Newborns who did not pass a hearing screening test during birth admission if administered; and
- (f) Newborns recommended for monitoring, intervention, and followup care.

(2) Every confirmatory testing facility shall annually report to the Department of Health and Human Services ~~Regulation and Licensure~~ the number of:

- (a) Newborns and infants who return for a followup hearing test;
- (b) Newborns and infants who do not have a hearing loss based upon the followup hearing test; and
- (c) Newborns and infants who are shown to have a hearing loss based upon the followup hearing test.

Sec. 594. Section 71-4740, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4740 (1) Every birthing facility shall educate the parents of newborns born in such facilities of the importance of receiving a hearing screening test and any necessary followup care. This educational information shall explain, in lay terms, the hearing screening test, the likelihood of the newborn having a hearing loss, followup procedures, and community resources, including referral for early intervention services under the Early Intervention Act. The educational information shall also include a description of the normal auditory, speech, and language developmental process in children. Education shall not be considered a substitute for the hearing screening test.

(2) If a newborn is not born in a birthing facility, the Department of Health and Human Services ~~Regulation and Licensure~~ shall educate the parents of such newborns of the importance of receiving a hearing screening test and any necessary followup care. The department shall also give parents information to assist them in having the test performed within three months after the date of the child's birth.

Sec. 595. Section 71-4741, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4741 (1) The Department of Health and Human Services ~~Regulation and Licensure~~ shall determine which birthing facilities are administering hearing screening tests to newborns and infants on a voluntary basis and the number of newborns and infants screened. The department shall annually report to the Legislature the number of:

- (a) Birthing facilities administering voluntary hearing screening tests during birth admission;
- (b) Newborns screened as compared to the total number of newborns born in such facilities;
- (c) Newborns who passed a hearing screening test during birth admission if administered;
- (d) Newborns who did not pass a hearing screening test during birth admission if administered; and
- (e) Newborns recommended for followup care.

(2) The ~~department,~~ Department of Health and Human Services, in consultation with the State Department of Education, birthing facilities, and other providers, shall develop approved screening methods and protocol for statewide hearing screening tests of substantially all newborns and infants.

(3) Subject to available appropriations, the Department of Health and Human Services ~~Regulation and Licensure~~ shall make the report described in this section available.

Sec. 596. Section 71-4742, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4742 (1) Each birthing facility shall include a hearing screening test as part of its standard of care for newborns and shall establish a mechanism for compliance review. A hearing screening test shall be conducted on no fewer than ninety-five percent of the newborns born in this state.

(2) If the number of newborns receiving a hearing screening test does not equal or exceed ninety-five percent of the total number of newborns born in this state on or before December 1, 2003, or falls below ninety-five percent at any time thereafter, the Department of Health and Human Services ~~Regulation and Licensure~~ shall immediately adopt and promulgate rules and regulations implementing a hearing screening program. The hearing screening program shall provide for a hearing screening test that every newborn born in this state shall undergo and shall provide that the hearing screening test be completed during birth admission or, if that is not possible, no later than three months after birth. Notwithstanding this section, it is the goal of this state to achieve a one-hundred-percent screening rate.

Sec. 597. Section 71-4743, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4743 The Department of Health and Human Services ~~Regulation and Licensure~~ and the State Department of Education shall establish guidelines for when a referral shall be made for early intervention services under the Early Intervention Act. The guidelines shall include a request for an individual evaluation of a child suspected of being deaf or hard of hearing as defined in section 79-1118.01.

Sec. 598. Section 71-4744, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-4744 The Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt and promulgate rules and regulations necessary to implement the Infant Hearing Act.

Sec. 599. Section 71-4813, Reissue Revised Statutes of Nebraska, is

amended to read:

71-4813 When an autopsy is performed by the physician authorized by the county coroner to perform such autopsy, the physician or an appropriately qualified designee with training in ophthalmologic techniques, as provided for in subsection (2) of section 71-4807, may remove eye tissue of the decedent for the purpose of transplantation. The physician may also remove the pituitary gland for the purpose of research and treatment of hypopituitary dwarfism and of other growth disorders. Removal of the eye tissue or the pituitary gland shall only take place if the:

- (1) Autopsy was authorized by the county coroner;
- (2) County coroner receives permission from the person having control of the disposition of the decedent's remains pursuant to section 71-1339; and
- (3) Removal of eye tissue or of the pituitary gland will not interfere with the course of any subsequent investigation or alter the decedent's post mortem facial appearance.

The removed eye tissue or pituitary gland shall be transported to the ~~Director of Regulation and Licensure~~ Department of Health and Human Services or any desired institution or health facility as prescribed by section 71-1341.

Sec. 600. Section 71-4816, Reissue Revised Statutes of Nebraska, is amended to read:

71-4816 (1) ~~On or after July 1, 1989, the~~ The physician responsible for the completion and signing of the portion of the certificate of death entitled medical certificate of death or, if there is no such physician, the person responsible for signing the certificate of death shall attest on the death certificate whether organ or tissue donation was considered and whether consent was granted.

(2) ~~After July 1, 1988, the~~ The Department of Health and Human Services ~~Regulation and Licensure~~ shall make available the number of organ and tissue donors in Nebraska for statistical purposes.

Sec. 601. Section 71-4819, Reissue Revised Statutes of Nebraska, is amended to read:

71-4819 (1) ~~The Director~~ Department of Health and Human Services shall educate residents of the state about:

- (a) The need for bone marrow donors;
- (b) The procedures required to become registered as a potential bone marrow donor, including the procedures for determining tissue type; and
- (c) The medical procedures a donor must undergo to donate bone marrow and the attendant risks of the procedures.

(2) ~~The director~~ department shall make special efforts to educate and recruit persons of racial and ethnic minorities to volunteer as potential bone marrow donors.

(3) ~~The director~~ department may use the press, radio, and television and may place educational materials in appropriate health care facilities, blood banks, and state and local agencies. ~~The Director of Health and Human Services,~~ department, in conjunction with the Director of Motor Vehicles, shall make educational materials available at all places where motor vehicle operators' licenses are issued or renewed.

Sec. 602. Section 71-5175, Reissue Revised Statutes of Nebraska, is amended to read:

71-5175 For purposes of the Emergency Medical Services Act:

(1) Ambulance means any privately or publicly owned motor vehicle or aircraft that is especially designed, constructed or modified, and equipped and is intended to be used and is maintained or operated for the overland or air transportation of patients upon the streets, roads, highways, airspace, or public ways in this state, including funeral coaches or hearses, or any other motor vehicles or aircraft used for such purposes;

(2) Board means the Board of Emergency Medical Services;

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

(4) Emergency medical service means the organization responding to a perceived individual need for immediate medical care in order to prevent loss of life or aggravation of physiological or psychological illness or injury;

(5) Out-of-hospital emergency care provider includes all certification classifications of emergency care providers established pursuant to the act;

(6) Patient means an individual who either identifies himself or herself as being in need of medical attention or upon assessment by an out-of-hospital emergency care provider has an injury or illness requiring treatment;

(7) Person means an individual, firm, partnership, limited liability

company, corporation, company, association, or joint-stock company or association or group of individuals acting together for a common purpose and includes the State of Nebraska and any agency or political subdivision of the state;

(8) Physician medical director means a qualified physician who is responsible for the medical supervision of out-of-hospital emergency care providers and verification of skill proficiency of out-of-hospital emergency care providers pursuant to section 71-5178;

(9) Protocol means a set of written policies, procedures, and directions from a physician medical director to an out-of-hospital emergency care provider concerning the medical procedures to be performed in specific situations;

(10) Qualified physician means an individual who is licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107.14 or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141 and meets any other requirements established by rule and regulation;

(11) Qualified physician surrogate means a qualified, trained medical person designated by a qualified physician in writing to act as an agent for the physician in directing the actions or recertification of out-of-hospital emergency care providers; and

(12) Standing order means a direct order from the physician medical director to perform certain tasks for a patient under a specific set of circumstances.

Sec. 603. Section 71-5192, Reissue Revised Statutes of Nebraska, is amended to read:

71-5192 An out-of-hospital emergency care provider or emergency medical service holding a valid certificate or license issued by the ~~department~~ State of Nebraska prior to July 1, 1998, may perform any practice or procedure authorized for a holder of that type of certificate or license in accordance with rules and regulations in effect immediately prior to July 1, 1998, and until the rules and regulations are amended or repealed pursuant to the Emergency Medical Services Act. A certificate or license may be issued or renewed and will expire in accordance with the rules and regulations adopted pursuant to the Emergency Medical Technician-Paramedic Act, the First Responders Emergency Rescue Act, and sections 71-5101 to 71-5165 until those rules and regulations are amended or repealed pursuant to the Emergency Medical Services Act.

Sec. 604. Section 71-5197, Reissue Revised Statutes of Nebraska, is amended to read:

71-5197 The department may accept from any person, in the name of and for the state, services, equipment, supplies, materials, or funds by way of bequest, gift, or grant for the purposes of promoting emergency medical care. Any such funds received shall be remitted to the state treasury and shall be credited by the State Treasurer to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund.

Sec. 605. Section 71-51,102, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-51,102 (1) For purposes of this section:

(a) Automated external defibrillator means a device that:

(i) Is capable of recognizing the presence or absence of ventricular fibrillation or rapid ventricular tachycardia and is capable of determining, without intervention of an operator, whether defibrillation should be performed; and

(ii) Automatically charges and requests delivery of an electrical impulse to an individual's heart when it has identified a condition for which defibrillation should be performed;

(b) Emergency medical service means an emergency medical service as defined in section 71-5175;

(c) Health care facility means a health care facility as defined in section 71-413;

(d) Health care practitioner facility means a health care practitioner facility as defined in section 71-414; and

(e) Health care professional means any person who is licensed, certified, or registered by the Department of Health and Human Services ~~Regulation and Licensure~~ and who is authorized within his or her scope of practice to use an automated external defibrillator.

(2) Except for the action or omission of a health care professional acting in such capacity or in a health care facility, no person who delivers emergency care or treatment using an automated external defibrillator shall be liable in any civil action to respond in damages as a result of his or her acts of commission or omission arising out of and in the course of rendering such care or treatment in good faith. Nothing in this subsection



shall be construed to (a) grant immunity for any willful, wanton, or grossly negligent acts of commission or omission or (b) limit the immunity provisions for certain health care professionals as provided in section 71-5194.

(3) A person acquiring an automated external defibrillator shall notify the local emergency medical service of the existence, location, and type of the defibrillator and of any change in the location of such defibrillator unless the defibrillator was acquired for use in a private residence, a health care facility, or a health care practitioner facility.

Sec. 606. Section 71-51,103, Reissue Revised Statutes of Nebraska, is amended to read:

71-51,103 There is hereby created the Nebraska Emergency Medical System Operations Fund. The fund may receive gifts, bequests, grants, fees, or other contributions or donations from public or private entities. The fund shall be used to carry out the purposes of the Statewide Trauma System Act and the Emergency Medical Services Act, including activities related to the design, maintenance, or enhancement of the statewide trauma system, support of emergency medical services programs, and support for the emergency medical services programs for children. The ~~Director of Regulation and Licensure~~ Department of Health and Human Services shall annually, on or before January 1, submit a report to the Legislature which includes a general accounting of the income and expenditures of the fund. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 607. Section 71-5205, Reissue Revised Statutes of Nebraska, is amended to read:

71-5205 The family practice residency program may be funded in part by grants provided by the Department of Health and Human Services ~~Finance and Support or other~~ or agencies of the federal government. If such grants are provided, the Legislature shall not provide funding for such program.

Sec. 608. Section 71-5301, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5301 For purposes of the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

(1) Council means the Advisory Council on Public Water Supply;

~~(2) Department means the Division of Public Health of the Department of Health and Human Services;~~

~~(2) (3) Director means the Director of Regulation and Licensure Public Health of the Division of Public Health or his or her authorized representative;~~

~~(3) (4) Designated agent means any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the Nebraska Safe Drinking Water Act and with which the Director of Regulation and Licensure director has consummated a legal and binding contract covering specifically delegated responsibilities;~~

~~(4) (5) Major construction, extension, or alteration means those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but does not include the extension of service mains within established service areas;~~

~~(5) (6) Operator means the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;~~

~~(6) (7) Owner means any person owning or operating a public water system;~~

~~(7) (8) Person means any individual, firm, partnership, limited liability company, association, company, corporation, political subdivision, or other entity;~~

~~(8) (9) Water supply system means all sources of water and their surroundings under the control of one owner and includes all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;~~

~~(9) (a) (10) (a) Public water system means a system for providing the public with water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least sixty days per year. Public water system includes (i) any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system and (ii) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Public water system does not include a special irrigation district. A public water system is either a community water system or a noncommunity water~~

system.

(b) Service connection does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if (i) the water is used exclusively for purposes other than residential uses, consisting of drinking, bathing, cooking, and other similar uses, (ii) the department determines that alternative water to achieve the equivalent level of public health protection provided by the Nebraska Safe Drinking Water Act and rules and regulations under the act is provided for residential or similar uses for drinking and cooking, or (iii) the department determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the Nebraska Safe Drinking Water Act and the rules and regulations under the act.

(c) Special irrigation district means an irrigation district in existence prior to May 18, 1994, that provides primarily agricultural service through a piped water system with only incidental residential or similar use if the system or the residential or similar users of the system comply with exclusion provisions of subdivision (b) (ii) or (iii) of this subdivision;

~~(10)~~ (11) Drinking water standards means rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the ~~Director of Regulation and Licensure~~, director, may have an adverse effect on the health of persons and (b) apply only to public water systems;

~~(11)~~ (12) Lead free (a) when used with respect to solders and flux means solders and flux containing not more than two-tenths percent lead, (b) when used with respect to pipes and pipe fittings means pipes and pipe fittings containing not more than eight percent lead, and (c) when used with respect to plumbing fittings and fixtures intended by the manufacturer to dispense water for human ingestion means fittings and fixtures that are in compliance with standards established in accordance with 42 U.S.C. 300g-6(e) as such section existed on July 16, 2004;

~~(12)~~ (13) Community water system means a public water system that (a) serves at least fifteen service connections used by year-round residents of the area served by the system or (b) regularly serves at least twenty-five year-round residents;

~~(13)~~ (14) Noncommunity water system means a public water system that is not a community water system;

~~(14)~~ (15) Nontransient noncommunity water system means a public water system that is not a community water system and that regularly serves at least twenty-five of the same individuals over six months per year;

~~(15)~~ (16) Small system means a public water system that regularly serves less than ten thousand individuals; and

~~(16)~~ (17) Probation means a disciplinary action not to exceed two years in length during which a certificate holder may continue to operate under terms and conditions fixed by the order of probation.

Sec. 609. Section 71-5302, Reissue Revised Statutes of Nebraska, is amended to read:

71-5302 (1) The ~~Director of Regulation and Licensure~~ director shall adopt and promulgate necessary minimum drinking water standards, in the form of rules and regulations, to insure that drinking water supplied to consumers through all public water systems shall not contain amounts of chemical, radiological, physical, or bacteriological material determined by the ~~Director of Regulation and Licensure~~ director to be harmful to human health.

(2) The ~~Director of Regulation and Licensure~~ director may adopt and promulgate rules and regulations to require the monitoring of drinking water supplied to consumers through public water systems for chemical, radiological, physical, or bacteriological material determined by the ~~Director of Regulation and Licensure~~ director to be potentially harmful to human health.

(3) In determining what materials are harmful or potentially harmful to human health and in setting maximum levels for such harmful materials, the ~~Director of Regulation and Licensure~~ director shall be guided by:

(a) General knowledge of the medical profession and related scientific fields as to materials and substances which are harmful to humans if ingested through drinking water; and

(b) General knowledge of the medical profession and related scientific fields as to the maximum amounts of such harmful materials which may be ingested by human beings, over varying lengths of time, without resultant adverse effects on health.

(4) Subject to section 71-5310, state drinking water standards shall apply to each public water system in the state, except that such standards shall not apply to a public water system:

- (a) Which consists only of distribution and storage facilities and does not have any collection and treatment facilities;
- (b) Which obtains all of its water from, but is not owned or operated by, a public water system to which such standards apply;
- (c) Which does not sell water to any person; and
- (d) Which is not a carrier which conveys passengers in interstate commerce.

(5) The ~~Director of Regulation and Licensure~~ director may adopt alternative monitoring requirements for public water systems in accordance with section 1418 of the federal Safe Drinking Water Act, as such section existed on May 22, 2001.

(6) The ~~Director of Regulation and Licensure~~ director may adopt a system for the ranking of safe drinking water projects with known needs or for which loan applications have been received by the ~~Department of Health and Human Services Regulation and Licensure~~ director or the Department of Environmental Quality. In establishing the ranking system the ~~Director of Regulation and Licensure~~ director shall consider, among other things, the risk to human health, compliance with the federal Safe Drinking Water Act, as the act existed on May 22, 2001, and assistance to systems most in need based upon affordability criteria adopted by the ~~Director of Regulation and Licensure~~ director. This priority system shall be reviewed annually by the ~~Director of Regulation and Licensure~~ director.

Sec. 610. Section 71-5303, Reissue Revised Statutes of Nebraska, is amended to read:

71-5303 (1) No person shall operate or maintain a public water system without first obtaining a permit to operate such system from the director. No fee shall be charged for the issuance of such permit.

(2) The director shall inspect public water systems and report findings to the owner, publish a list of those systems not in compliance, and promote the training of and certify the competence of operators. The director may deny, revoke, suspend, or refuse renewal of a permit or certification, place a certificate holder on probation, issue administrative orders scheduling action to be taken, take emergency action as provided in section 71-5304.01, and seek a temporary or permanent injunction or such other legal process as is deemed necessary to obtain compliance with the Nebraska Safe Drinking Water Act.

(3) The ~~Department of Health and Human Services Regulation and Licensure~~ department may deny, revoke, suspend, or refuse to renew a permit or certification or place a certificate holder on probation for noncompliance with the act, the rules and regulations adopted and promulgated under the act, or the terms of a variance or exemption issued pursuant to section 71-5310.

(4) Any person shall be granted, upon request, an opportunity for a hearing before the department under the Administrative Procedure Act prior to the denial or revocation of a permit or certification or the placement of a certificate holder on probation. The denial, revocation, or the placement on probation by the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 611. Section 71-5304.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5304.01 (1) Whenever the ~~Director of Regulation and Licensure~~ director has reason to believe that a violation of any provision of the Nebraska Safe Drinking Water Act, any rule or regulation adopted and promulgated under such act, or any term of a variance or exemption issued pursuant to section 71-5310 has occurred, he or she may cause an administrative order to be served upon the permittee or permittees alleged to be in violation. Such order shall specify the violation and the facts alleged to constitute a violation and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless the permittee or permittees named in the order request in writing a hearing before the ~~Director of Regulation and Licensure~~ director no later than thirty days after the date such order is served. In lieu of such order, the ~~Director of Regulation and Licensure~~ director may require that the permittee or permittees appear before the ~~Director of Regulation and Licensure~~ director at a time and place specified in the notice and answer the charges. The notice shall be served on the permittee or permittees alleged to be in violation not less than thirty days before the time set for the hearing.

(2) Whenever the ~~Director of Regulation and Licensure~~ director finds that an emergency exists requiring immediate action to protect the public health and welfare concerning a material which is determined by the ~~Director of Regulation and Licensure~~ director to be harmful or potentially harmful to human health, the ~~Director of Regulation and Licensure~~ director may, without

notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as the ~~Director of Regulation and Licensure~~ director deems necessary to meet the emergency. Such order shall be effective immediately. Any person to whom such order is directed shall comply immediately and, on written application to the ~~Director of Regulation and Licensure~~, director, shall be afforded a hearing as soon as possible and not later than ten days after receipt of such application by such affected person. On the basis of such hearing, the ~~Director of Regulation and Licensure~~ director shall continue such order in effect, revoke it, or modify it.

(3) The ~~Director of Regulation and Licensure~~ director shall afford to the alleged violator an opportunity for a fair hearing before the ~~Department of Health and Human Services Regulation and Licensure~~ director under the Administrative Procedure Act.

(4) In addition to any other remedy provided by law, the ~~Director of Regulation and Licensure~~ director may issue an order assessing an administrative penalty upon a violator.

(5) The range of administrative penalties assessed under this section for a public water system serving ten thousand or more persons shall be not less than one thousand dollars per day or part thereof for each violation, not to exceed twenty-five thousand dollars in the aggregate. Administrative penalties for a small system shall be not more than five hundred dollars per day or part thereof for each violation, not to exceed five thousand dollars in the aggregate. In determining the amount of the administrative penalty, the department shall take into consideration all relevant circumstances, including, but not limited to, the harm or potential harm which the violation causes or may cause, the violator's previous compliance record, the nature and persistence of the violation, any corrective actions taken, and any other factors which the department may reasonably deem relevant. The administrative penalty assessment shall state specific amounts to be paid for each violation identified in the order.

(6) An administrative penalty shall be paid within sixty days after the date of issuance of the order assessing the penalty. Any person who fails to pay an administrative penalty by the final due date shall be liable to the state for the penalty amount plus any statutory interest rate applicable to judgments. An order under this section imposing an administrative penalty may be appealed to the ~~Director of Regulation and Licensure~~ director in the manner provided for in subsection (1) of this section. Any administrative penalty paid pursuant to this section shall be remitted to the State Treasurer for ~~credit to the permanent school fund.~~ distribution in accordance with Article VII, section 5, of the Constitution of Nebraska. An action may be brought in the appropriate court to collect any unpaid administrative penalty and for attorney's fees and costs incurred directly in the collection of the penalty.

Sec. 612. Section 71-5304.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-5304.02 (1) The director may require a public water system to give notice to the persons served by the system and to the ~~Department of Health and Human Services Regulation and Licensure~~ department whenever the system:

(a) Is not in compliance with an applicable maximum contaminant level or treatment technique requirement of or a testing procedure prescribed by rules and regulations adopted and promulgated under the Nebraska Safe Drinking Water Act;

(b) Fails to perform monitoring, testing, analyzing, or sampling as required;

(c) Is subject to a variance or exemption; or

(d) Is not in compliance with the requirements prescribed by a variance or exemption.

(2) The director may require a public water system to give notice to the persons served by the public water system of potential sources of contamination as identified by the director under subsection (2) of section 71-5302, of possible health effects of such contamination, and of possible mitigation measures.

(3) The director shall by rule and regulation prescribe the form and manner for giving such notice.

Sec. 613. Section 71-5305.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5305.01 All new community water systems and new nontransient noncommunity water systems commencing operation after October 1, 1999, shall demonstrate technical, managerial, and financial capacity to operate under the Nebraska Safe Drinking Water Act.

The ~~Director of Regulation and Licensure~~ director may adopt and promulgate rules and regulations to determine demonstration requirements for

technical, managerial, and financial capacity of community water systems and nontransient noncommunity water systems.

Sec. 614. Section 71-5305.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-5305.02 ~~The Department of Health and Human Services Regulation and Licensure~~ department shall develop a capacity development strategy to assist public water systems in acquiring and maintaining technical, managerial, and financial capacity pursuant to section 71-5305.01. The department shall consider and solicit public comment on:

(1) The methods or criteria the department will use to identify and prioritize the public water systems most in need of improving technical, managerial, and financial capacity;

(2) A description of the institutional, regulatory, financial, tax, or legal factors at the federal, state, or local level that encourage or impair capacity development;

(3) A description of how the department will:

(a) Assist public water systems in complying with the Nebraska Safe Drinking Water Act;

(b) Encourage the development of partnerships between public water systems to enhance the technical, managerial, and financial capacity of the systems; and

(c) Assist public water systems in the training and certification of operators; and

(4) A description of how the department will establish a baseline and measure improvements in capacity with respect to the act.

Sec. 615. Section 71-5306, Reissue Revised Statutes of Nebraska, is amended to read:

71-5306 (1) To carry out the provisions and purposes of the Nebraska Safe Drinking Water Act, the director may:

(a) Enter into agreements, contracts, or cooperative arrangements, under such terms as are deemed appropriate, with other state, federal, or interstate agencies or with municipalities, educational institutions, local health departments, or other organizations, entities, or individuals;

(b) Require all laboratory analyses to be performed at the Department of Health and Human Services Regulation and Licensure Laboratory, or at any other certified laboratory which has entered into an agreement with the ~~Department of Health and Human Services Regulation and Licensure~~ department therefor, and establish and collect fees for making laboratory analyses of water samples pursuant to sections 71-2619 to 71-2621, except that subsection (6) of section 71-2619 shall not apply for purposes of the Nebraska Safe Drinking Water Act. Inspection fees for making other laboratory agreements shall be established and collected pursuant to sections 71-2619 to 71-2621;

(c) Certify laboratories performing tests on water that is intended for human consumption. The director may establish, through rules and regulations, standards for certification. Such standards may include requirements for staffing, equipment, procedures, and methodology for conducting laboratory tests, quality assurance and quality control procedures, and communication of test results. Such standards shall be consistent with requirements for performing laboratory tests established by the federal Environmental Protection Agency to the extent such requirements are consistent with state law. The director may accept accreditation by a recognized independent accreditation body, public agency, or federal program which has standards that are at least as stringent as those established pursuant to this section. The director may adopt and promulgate rules and regulations which list accreditation bodies, public agencies, and federal programs that may be accepted as evidence that a laboratory meets the standards for certification. Inspection fees for certifying other laboratories shall be established and collected to defray the cost of the inspections;

(d) Receive financial and technical assistance from an agency of the federal government or from any other public or private agency;

(e) Enter the premises of a public water system at any time for the purpose of conducting monitoring, making inspections, or collecting water samples for analysis;

(f) Delegate those responsibilities and duties as deemed appropriate for the purpose of administering the requirements of the Nebraska Safe Drinking Water Act, including entering into agreements with designated agents which shall perform specifically delegated responsibilities and possess specifically delegated powers;

(g) Require the owner and operator of a public water system to establish and maintain records, make reports, and provide information as the ~~Department of Health and Human Services Regulation and Licensure~~ department

may reasonably require by regulation to enable it to determine whether such owner or operator has acted or is acting in compliance with the Nebraska Safe Drinking Water Act and rules and regulations adopted pursuant thereto. The department or its designated agent shall have access at all times to such records and reports; and

(h) Assess by regulation a fee for any review of plans and specifications pertaining to a public water system governed by section 71-5305 in order to defray no more than the actual cost of the services provided.

(2) All such fees collected by the ~~Department of Health and Human Services Regulation and Licensure~~ department shall be remitted to the State Treasurer for credit to the Safe Drinking Water Act Cash Fund, which is hereby created. Such fund shall be used by the department for the purpose of administering the Nebraska Safe Drinking Water Act. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 616. Section 71-5310, Reissue Revised Statutes of Nebraska, is amended to read:

71-5310 (1) The director, with the approval of the council, may authorize variances or exemptions from the drinking water standards issued pursuant to section 71-5302 under conditions and in such manner as they deem necessary and desirable. Such variances or exemptions shall be permitted under conditions and in a manner which are not less stringent than the conditions under, and the manner in which, variances and exemptions may be granted under the federal Safe Drinking Water Act as the act existed on July 20, 2002.

(2) Prior to granting a variance or an exemption, the director shall provide notice, in a newspaper of general circulation serving the area served by the public water system, of the proposed exemption or variance and that interested persons may request a public hearing on the proposed exemption or variance. The director may require the system to provide other appropriate notice as he or she deems necessary to provide adequate notice to persons served by the system.

If a public hearing is requested, the director shall set a time and place for the hearing and such hearing shall be held before the ~~Department of Health and Human Services Regulation and Licensure~~ department prior to the variance or exemption being issued. Frivolous and insubstantial requests for a hearing may be denied by the director. An exemption or variance shall be conditioned on monitoring, testing, analyzing, or other requirements to insure the protection of the public health. A variance or an exemption granted shall include a schedule of compliance under which the public water system is required to meet each contaminant level or treatment technique requirement for which a variance or an exemption is granted within a reasonable time as specified by the director with the approval of the council.

Sec. 617. Section 71-5310.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5310.01 Except as otherwise expressly provided, any notice, order, or other instrument issued by or under authority of the director under the Nebraska Safe Drinking Water Act may be served on any person affected by such notice, order, or other instrument, personally or by publication, and proof of such service may be made in like manner as in case of service of a summons in a civil action, such proof to be filed in the office of the ~~Department of Health and Human Services Regulation and Licensure,~~ department, or such service may be made by mailing a copy of the notice, order, or other instrument by certified or registered mail directed to the person affected at his or her last-known post office address as shown by the files or records of the department, and proof of service may be made by the affidavit of the person who did the mailing and filed in the office of the department.

Every certificate or affidavit of service made and filed as provided in this section shall be prima facie evidence of the facts stated in such certificate or affidavit, and a certified copy shall have like force and effect.

Sec. 618. Section 71-5311, Reissue Revised Statutes of Nebraska, is amended to read:

71-5311 (1) There is hereby established the Advisory Council on Public Water Supply which shall advise and assist the department in administering the Nebraska Safe Drinking Water Act.

(2) The council shall be composed of seven members appointed by the Governor, (a) one of whom shall be a professional engineer, (b) one of whom shall be a licensed physician, (c) two of whom shall be consumers of a public water system, (d) two of whom shall be operators of a public water system who possess a certificate of competency issued by the ~~Department of Health and Human Services Regulation and Licensure~~ department to operate a public water

system. One such operator shall represent a system serving a population of five thousand or less, and one such operator shall represent a system serving a population of more than five thousand, and (e) one of whom shall be, at the time of appointment, (i) an individual who owns a public water system, (ii) a member of the governing board of a public or private corporation which owns a public water system, or (iii) in the case of a political subdivision which owns a public water system, a member of the subdivision's governing board or board of public works or similar board which oversees the operation of a public water system.

Any owner or operator of a public water system serving on the council on March 2, 1989, shall continue to serve until the term of such member expires. As his or her term expires, such owner or operator shall be replaced by a person qualified as prescribed in subdivisions (d) and (e) of this subsection respectively.

(3) All members shall be appointed for three-year terms. No member shall serve more than three consecutive three-year terms. Each member shall hold office until the expiration of his or her term or until a successor has been appointed. Any vacancy occurring in council membership, other than by expiration of term, shall be filled within sixty days by the Governor by appointment from the appropriate category for the unexpired term.

(4) The council shall meet not less than once each year. Special meetings of the council may be called by the director or upon the written request of any two members of the council explaining the reason for such meeting. The place of the meeting shall be set by the director. Such officers as the council deems necessary shall be elected every three years beginning with the first meeting in the year 1990. A majority of the members of the council shall constitute a quorum for the transaction of business. Representatives of the department shall attend each meeting. Every act of the majority of the members of the council shall be deemed to be the act of the council.

(5) No member of the council shall receive any compensation, but each member shall be entitled, while serving on the business of the council, to receive his or her travel and other necessary expenses while so serving away from his or her place of residence as provided in sections 81-1174 to 81-1177.

Sec. 619. Section 71-5311.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-5311.02 ~~The Director of Regulation and Licensure~~ director shall make every effort to obtain voluntary compliance through warning, conference, or any other appropriate means prior to initiating enforcement proceedings, except that such requirement shall not be construed to alter enforcement duties or requirements of the ~~Director of Regulation and Licensure~~ director and the department.

Sec. 620. Section 71-5318, Reissue Revised Statutes of Nebraska, is amended to read:

71-5318 (1) The Drinking Water Facilities Loan Fund is created. The fund shall be held as a trust fund for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may conduct activities related to financial administration of the fund, administration or provision of technical assistance through public water system source water assessment programs, and implementation of a source water petition program under the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for the security, investment, and repayment of bonds.

The fund and the assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or to secure the payment of bonds and the interest thereon, except that amounts deposited into the fund from state appropriations and the earnings on such appropriations may not be used to pay

or to secure the payment of bonds or the interest thereon.

(2) The Land Acquisition and Source Water Loan Fund is created. The fund shall be held as a trust for the purposes and uses described in the Drinking Water State Revolving Fund Act.

The fund shall consist of federal capitalization grants, state matching appropriations, proceeds of state match bond issues credited to the fund, repayments of principal and interest on loans, and other money designated for the fund. The director may make loans from the fund pursuant to the Drinking Water State Revolving Fund Act and may, in consultation with the Director of ~~Regulation and Licensure~~, Public Health of the Division of Public Health, conduct activities other than the making of loans permitted under section 1452(k) of the Safe Drinking Water Act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act, except that any bond proceeds in the fund shall be invested in accordance with the terms of the documents under which the bonds are issued. The state investment officer may direct that the bond proceeds shall be deposited with the bond trustee for investment. Investment earnings shall be credited to the fund.

The department may create or direct the creation of accounts within the fund as the department determines to be appropriate and useful in administering the fund and in providing for security, investment, and repayment of bonds.

The fund and assets thereof may be used, to the extent permitted by the Safe Drinking Water Act and the regulations adopted and promulgated pursuant to such act, to pay or secure the payment of bonds and the interest thereon, except that amounts credited to the fund from state appropriations and the earnings on such appropriations may not be used to pay or to secure the payment of bonds or the interest thereon.

The director may transfer any money in the Land Acquisition and Source Water Loan Fund to the Drinking Water Facilities Loan Fund.

(3) There is hereby created the Drinking Water Administration Fund. Any funds available for administering loans or fees collected pursuant to the Drinking Water State Revolving Fund Act shall be remitted to the State Treasurer for credit to such fund. The fund shall be administered by the department for the purposes of the act. The state investment officer shall invest any money in the fund available for investment pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act. Investment earnings shall be credited to the fund.

Sec. 621. Section 71-5322, Reissue Revised Statutes of Nebraska, is amended to read:

71-5322 The department shall have the following powers and duties:

(1) The power to establish a program to make loans to owners of public water systems, individually or jointly, for construction or modification of safe drinking water projects in accordance with the Drinking Water State Revolving Fund Act and the rules and regulations of the council adopted and promulgated pursuant to such act;

(2) The power, if so authorized by the council pursuant to section 71-5321, to execute and deliver documents obligating the Drinking Water Facilities Loan Fund or the Land Acquisition and Source Water Loan Fund and the assets thereof to the extent permitted by section 71-5318 to repay, with interest, loans to or credits into such funds and to execute and deliver documents pledging to the extent permitted by section 71-5318 all or part of such funds and assets to secure, directly or indirectly, the loans or credits;

(3) The duty to prepare an annual report for the Governor and the Legislature;

(4) The duty to establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods, including the following:

(a) Accounting from the Nebraska Investment Finance Authority for the costs associated with the issuance of bonds pursuant to the act;

(b) Accounting for payments or deposits received by the funds;

(c) Accounting for disbursements made by the funds; and

(d) Balancing the funds at the beginning and end of the accounting period;

(5) The duty to establish financial capability requirements that assure sufficient revenue to operate and maintain a facility for its useful life and to repay the loan for such facility;

(6) The power to determine the rate of interest to be charged on a loan in accordance with the rules and regulations adopted and promulgated by the council;

(7) The power to develop an intended use plan, in consultation with



the Director of ~~Regulation and Licensure~~, Public Health of the Division of Public Health, for adoption by the council;

(8) The power to enter into required agreements with the United States Environmental Protection Agency pursuant to the Safe Drinking Water Act; and

(9) Such other powers as may be necessary and appropriate for the exercise of the duties created under the Drinking Water State Revolving Fund Act.

Sec. 622. Section 71-5402, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5402 For purposes of the Nebraska Drug Product Selection Act, unless the context otherwise requires:

(1) Bioequivalent means drug products: (a) That are legally marketed under regulations promulgated by the federal Food and Drug Administration; (b) that are the same dosage form of the identical active ingredients in the identical amounts as the drug product prescribed; (c) that 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;

(2) Board means the Board of Pharmacy;

(3) Brand name means the proprietary or trade name selected by the manufacturer, distributor, or packager for a drug product and placed upon the labeling of such product at the time of packaging;

(4) Chemically equivalent 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) Department means the Department of Health and Human Services; ~~Regulation and Licensure~~;

(6) Drug product means any drug or device as defined in section 71-1,142;

(7) Drug product select means to dispense, without the practitioner's express authorization, an equivalent drug product in place of the brand-name drug product contained in a medical order of such practitioner;

(8) Equivalent means drug products that are both chemically equivalent and bioequivalent;

(9) Generic name means the official title of a drug or drug combination as determined by the United States Adopted Names Council and accepted by the federal Food and Drug Administration of those drug products having the same active chemical ingredients in the same strength and quantity;

(10) Medical order has the definition found in section 71-1,142;

(11) Pharmacist means a pharmacist licensed under the Uniform Licensing Law; and

(12) Practitioner has the definition found in section 71-1,142.

Sec. 623. Section 71-5647, Revised Statutes Cumulative Supplement, 2006, 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~~, Department of Health and Human Services.

Sec. 624. Section 71-5649, Revised Statutes Cumulative Supplement, 2006, 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. 625. Section 71-5653, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5653 For purposes of the Rural Health Systems and Professional Incentive Act:

(1) Approved medical specialty means family practice, general practice, general internal medicine, general pediatrics, general surgery, obstetrics/gynecology, and psychiatry;

(2) Approved dental specialty means general practice, pediatric dentistry, and oral surgery;

(3) Approved mental health practice program means an approved educational program consisting of a master's or doctorate degree with the focus being primarily therapeutic mental health and meeting the educational requirements for licensure in mental health practice or psychology by the department;

(4) Commission means the Nebraska Rural Health Advisory Commission;

(5) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure~~;

(6) Doctorate-level mental health student means a graduate student enrolled in or accepted for enrollment in an approved mental health practice program leading to a doctorate degree and meeting the educational requirements for licensure in psychology by the department;

(7) Full-time practice means a minimum of forty hours per week;

(8) Health care means both somatic and mental health care services;

(9) Master's level mental health student means a graduate student enrolled in or accepted for enrollment in an approved mental health practice program leading to a master's degree and meeting the educational requirements for licensure in mental health practice by the department;

(10) Office means the Office of Rural Health;

(11) 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

(12) 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. 626. Section 71-5654, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5654 The Nebraska Rural Health Advisory Commission is hereby created as the direct and only successor to the Commission on Rural Health Manpower. The Nebraska Rural Health Advisory Commission shall consist of thirteen members as follows:

(1) ~~The Director of Regulation and Licensure or his or her designee and the Director of Health and Human Services or his or her designee~~; The Director of Public Health of the Division of Public Health or his or her designee and another representative of the Department of Health and Human Services; and

(2) Eleven members to be appointed by the Governor with the advice and consent of the Legislature as follows:

(a) One representative of each medical school located in the state involved in training family physicians and one physician in family practice

residency training; and

(b) From rural areas one physician, one consumer representative, one hospital administrator, one nursing home administrator, one nurse, one physician assistant, one mental health practitioner or psychologist licensed under the requirements of section 71-1,206.15 or the equivalent thereof, and one dentist.

Members shall serve for terms of three years. When a vacancy occurs, appointment to fill the vacancy shall be made for the balance of the term. All appointed members shall be citizens and residents of Nebraska. The appointed membership of the commission shall, to the extent possible, represent the three congressional districts equally.

Sec. 627. Section 71-5655, Revised Statutes Cumulative Supplement, 2006, 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,~~ department, 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. 628. Section 71-5681, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5681 The Legislature hereby finds and declares that:

(1) Eighty-eight of Nebraska's ninety-three counties are classified as mental and behavioral health profession shortage areas by the federal Health Resources and Services Administration and the Nebraska Department of Health and Human Services;

(2) The Department of Health and Human Services ~~Regulation and Licensure~~ reports that seventy-four percent of the state's psychiatrists, psychologists, and licensed mental health practitioners live and practice in the urban areas of Omaha and Lincoln, which leaves the remaining seventy-two thousand square miles of Nebraska to be covered by approximately one-fourth of the professionals licensed to practice behavioral health in Nebraska;

(3) Thirty-eight Nebraska counties have one or no licensed behavioral health professional; and

(4) Reductions in federal funding will result in the elimination of over five thousand five hundred behavioral health patient visits in rural Nebraska.

Sec. 629. Section 71-5707, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5707 (1) No person shall smoke in a public place or at a public meeting except in designated smoking areas. This subsection does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of such room or hall.

(2) With respect to factories, warehouses, and similar places of work not usually frequented by the general public, the Department of Health and Human Services ~~Regulation and Licensure~~ shall, in consultation with the Department of Labor, establish rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees.

(3) No person shall smoke at a site where child care programs required to be licensed under section 71-1911 are provided. This subsection applies to a child care program located in the home of the provider only during times one or more client's children are present in any part of the home.

(4) Smoking is prohibited in all vehicles owned or leased by the state and in all buildings, and the area within ten feet of any entrance of such buildings, which are owned, leased, or occupied by the state except as provided in subsections (5), (6), and (7) of this section.

(5) The following buildings or areas within buildings in which persons reside or lodge may be exempt from this section: (a) Nebraska veterans homes established pursuant to section 80-315; (b) private residences; (c) facilities and institutions under the control of the Department of Health and Human Services; and (d) overnight lodging facilities and buildings managed by the Game and Parks Commission, but no more than twenty-five percent of the overnight lodging facilities at each park location shall permit smoking.

(6) Designated smoking areas not to exceed fifty percent of the space used by the public may be established in state-owned buildings at the Nebraska State Fairgrounds that possess a Class C, I, or M license for the sale of alcoholic liquor for consumption on the premises under the Nebraska Liquor Control Act.

(7) Smoking may be permitted in no more than forty percent of the residential housing rooms or units owned or leased on each campus under the control of the Board of Regents of the University of Nebraska or the Board of Trustees of the Nebraska State Colleges.

Sec. 630. Section 71-5710, Reissue Revised Statutes of Nebraska, is amended to read:

71-5710 The Department of Health and Human Services ~~Regulation and Licensure shall, not later than January 1, 1980,~~ shall adopt and promulgate rules and regulations necessary and reasonable to implement the provisions of sections 71-5701 to 71-5713. The ~~Department of Health and Human Services Regulation and Licensure~~ department shall consult with interested persons and professional organizations before promulgating such rules and regulations.

Sec. 631. Section 71-5711, Reissue Revised Statutes of Nebraska, is amended to read:

71-5711 The Department of Health and Human Services ~~Regulation and Licensure~~ may, upon request, waive the provisions of sections 71-5701 to 71-5713 if it determines there are compelling reasons to do so and a waiver will not significantly affect the health and comfort of nonsmokers.

Sec. 632. Section 71-5713, Reissue Revised Statutes of Nebraska, is amended to read:

71-5713 The Department of Health and Human Services ~~Regulation and Licensure~~ or a local public health department as defined in section 71-1626 may institute an action in any court with jurisdiction to enjoin any violation of the Nebraska Clean Indoor Air Act. Any interested party may report possible violations of the act to such departments.

Sec. 633. Section 71-5714, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5714 The Tobacco Prevention and Control Cash Fund is created. The fund shall be used for a comprehensive statewide tobacco-related public health program administered by the Department of Health and Human Services ~~Regulation and Licensure~~ which includes, but is not limited to (1) community programs to reduce tobacco use, (2) chronic disease programs, (3) school programs, (4) statewide programs, (5) enforcement, (6) counter marketing, (7) cessation programs, (8) surveillance and evaluation, and (9) administration. Any money in the Tobacco Prevention and Control 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. 634. Section 71-5803.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-5803.04 Department means the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 635. Section 71-5829.05, Reissue Revised Statutes of Nebraska, is amended to read:

71-5829.05 If two or more applications are submitted within thirty days after the receipt of the first application for the same health planning region and the approval of all the applications would result in long-term care beds in the health planning region in excess of the long-term care bed need established in section 71-5829.04, the department shall grant the application and issue a certificate of need, subject to any reduction in beds required by section 71-5846 to the applicant which is better able to: (1) Provide quality care; (2) operate a long-term care facility in a cost-effective manner based on annual cost reports submitted to the ~~Department of Health and Human Services Finance and Support;~~ department; (3) accumulate financial resources to complete the project; and (4) serve medicare, medicaid, and medically indigent long-term care patients in the area. The department shall show a preference to an application filed by an applicant with facilities in Nebraska. Information to make these determinations shall be limited to the application and data currently collected by the state. If the applicant does not have a facility in Nebraska, the department may request information from other states in which the applicant is offering services to make its determination.

Sec. 636. Section 71-5859, Reissue Revised Statutes of Nebraska, is amended to read:

71-5859 The department shall adopt and promulgate rules and regulations establishing procedures in accordance with the Administrative Procedure Act by which the applicant may appeal a decision by the department. ~~to the Director of Regulation and Licensure.~~ The applicant may appeal a final decision of the ~~director~~ department to the district court in accordance with the Administrative Procedure Act.

Sec. 637. Section 71-5903, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-5903 For purposes of the Assisted-Living Facility Act:

(1) Activities of daily living means transfer, ambulation, exercise, toileting, eating, self-administration of medication, and similar activities;

(2) Administrator means the operating officer of an assisted-living facility and includes a person with a title such as administrator, chief executive officer, manager, superintendent, director, or other similar designation;

(3) Assisted-living facility has the same meaning as in section 71-406;

(4) Authorized representative means (a) a person holding a durable power of attorney for health care, (b) a guardian, or (c) a person appointed by a court to manage the personal affairs of a resident of an assisted-living facility other than the facility;

(5) Chemical restraint means a psychopharmacologic drug that is used for discipline or convenience and is not required to treat medical symptoms;

(6) Complex nursing interventions means interventions which require nursing judgment to safely alter standard procedures in accordance with the needs of the resident, which require nursing judgment to determine how to proceed from one step to the next, or which require a multidimensional application of the nursing process. Complex nursing interventions does not include a nursing assessment;

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

(8) Health maintenance activities means noncomplex interventions which can safely be performed according to exact directions, which do not require alteration of the standard procedure, and for which the results and resident responses are predictable;

(9) Personal care means bathing, hair care, nail care, shaving, dressing, oral care, and similar activities;

(10) Physical restraint means any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that he or she cannot remove easily and that restricts freedom of movement or normal access to his or her own body; and

(11) Stable or predictable means that a resident's clinical and behavioral status and nursing care needs are determined to be (a) nonfluctuating and consistent or (b) fluctuating in an expected manner with planned interventions, including an expected deteriorating condition.

Sec. 638. Section 71-6010, Reissue Revised Statutes of Nebraska, is amended to read:

71-6010 Department shall mean the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 639. Section 71-6018.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-6018.01 (1) Unless a waiver is granted pursuant to subsection (2) of this section, 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 subsection (2) of this section, 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.

(2) The department may waive either the requirement that a nursing facility or long-term care hospital certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed registered nurse for at least eight consecutive hours per day, seven days per week, or the requirement that a nursing facility or long-term care hospital certified under Title XIX of the federal Social Security Act, as amended, use the services of a licensed registered nurse or licensed practical nurse on a twenty-four-hour basis seven days per week, including the requirement for a charge nurse on each tour of duty, if:

(a) (i) The facility or hospital demonstrates to the satisfaction of the department that it has been unable, despite diligent efforts, including offering wages at the community prevailing rate for the facilities or hospitals, to recruit appropriate personnel;

(ii) The department determines that a waiver of the requirement will not endanger the health or safety of individuals staying in the facility or hospital; and

(iii) The department finds that, for any periods in which licensed nursing services are not available, a licensed registered nurse or physician is obligated to respond immediately to telephone calls from the facility or

hospital; or

(b) ~~The Department of Health and Human Services Finance and Support~~ department has been granted any waiver by the federal government of staffing standards for certification under Title XIX of the federal Social Security Act, as amended, and the requirements of subdivisions (a)(ii) and (iii) of this subsection have been met.

(3) ~~The Department of Health and Human Services Finance and Support~~ department shall apply for such a waiver from the federal government to carry out subdivision (1)(b) of this section.

(4) A waiver granted under this section shall be subject to annual review by the department. As a condition of granting or renewing a waiver, a facility or hospital may be required to employ other qualified licensed personnel. The department may grant a waiver under this section if it determines that the waiver will not cause the State of Nebraska to fail to comply with any of the applicable requirements of medicaid so as to make the state ineligible for the receipt of all funds to which it might otherwise be entitled.

(5) The department shall provide notice of the granting of a waiver to the office of the state long-term care ombudsman and to the Nebraska Advocacy Services or any successor designated for the protection of and advocacy for persons with mental illness or mental retardation. A nursing facility granted a waiver shall provide written notification to each resident of the facility or, if appropriate, to the guardian, legal representative, or immediate family of the resident.

Sec. 640. Section 71-6019, Reissue Revised Statutes of Nebraska, is amended to read:

71-6019 Any employee, representative, or agent of the ~~Department of Health and Human Services,~~ department, the office of the state long-term care ombudsman, a law enforcement agency, or the local county attorney shall be permitted access at any hour to any resident of any nursing home. Friends and relatives of a resident shall have access during normal visiting and business hours of the facility. Representatives of community legal services programs, volunteers, and members of community organizations shall have access, after making arrangements with proper personnel of the home, during regular visiting and business hours if the purpose of such access is to:

(1) Visit, talk with, and make personal, social, and legal services available to all residents;

(2) Inform residents of their rights and entitlements and their corresponding obligations under federal and state laws by means of educational materials and discussions in groups and with individual residents;

(3) Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in all other matters in which residents are aggrieved. Assistance may include counseling and litigation; or

(4) Engage in other methods of asserting, advising, and representing residents so as to extend to them full enjoyment of their rights.

Sec. 641. Section 71-6021, Reissue Revised Statutes of Nebraska, is amended to read:

71-6021 (1) Notwithstanding the provisions of sections 71-6019 and 71-6020, the administrator of a nursing home may refuse access to the nursing home to any person if the presence of such person in the nursing home would be injurious to the health and safety of a resident or would threaten the security of the property of a resident or the nursing home or if the person seeks access to the nursing home for commercial purposes. Any person refused access to a nursing home may, within thirty days of such refusal, request a hearing by the department. The wrongful refusal of a nursing home to grant access to any person as required in sections 71-6019 and 71-6020 shall constitute a violation of the Nebraska Nursing Home Act. A nursing home may appeal any citation issued pursuant to this section in the manner provided in sections 71-452 to 71-455.

(2) Nothing in sections 71-6019 to 71-6021 shall be construed to prevent (a) an employee of the ~~Department of Health and Human Services,~~ the Department of Health and Human Services Regulation and Licensure, ~~or the Department of Health and Human Services Finance and Support,~~ department, acting in his or her official capacity, from entering a nursing home for any inspection authorized by the act or any rule or regulation adopted and promulgated pursuant thereto or (b) a state long-term care ombudsman or an ombudsman advocate, acting in his or her official capacity, from entering a nursing home to conduct an investigation authorized by any rules and regulations promulgated by the ~~Department of Health and Human Services,~~ department.

Sec. 642. Section 71-6038, Revised Statutes Cumulative Supplement,

2006, is amended to read:

71-6038 For purposes of sections 71-6038 to 71-6042:

(1) Complicated feeding problems include, but are not limited to, difficulty swallowing, recurrent lung aspirations, and tube or parenteral or intravenous feedings;

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

(3) Nursing assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the performance of nonspecialized tasks related to the personal care and comfort of residents other than a paid dining assistant or a licensed registered or practical nurse;

(4) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-421, 71-422, 71-424, and 71-429; and

(5) Paid dining assistant means any person employed by a nursing home for the purpose of aiding a licensed registered or practical nurse through the feeding of residents other than a nursing assistant or a licensed registered or practical nurse.

Sec. 643. Section 71-6042, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6042 ~~The department~~ chief medical officer as designated in section 6 of this act shall have the authority to enforce sections 71-6038 to 71-6042 and rules and regulations adopted under section 71-6041 by any of the following means: Denial, suspension, restriction, or revocation of a nursing home's license, refusal of the renewal of a nursing home's license, restriction of a nursing home's admissions, or any other enforcement provision granted to the department.

Sec. 644. Section 71-6043, Reissue Revised Statutes of Nebraska, is amended to read:

71-6043 As used in sections 71-6043 to 71-6052, unless the context otherwise requires:

(1) Council ~~shall mean~~ means the Nursing Home Advisory Council as established by sections 71-6043 to 71-6052;

(2) Department ~~shall mean~~ means the Division of Public Health of the Department of Health and Human Services; Regulation and Licensure; and

(3) Nursing home ~~shall mean~~ means a nursing facility or a skilled nursing facility as defined in section 71-424 or 71-429.

Sec. 645. Section 71-6045, Reissue Revised Statutes of Nebraska, is amended to read:

71-6045 The council shall consist of sixteen members appointed by the Governor as follows:

(1) One member shall be a licensed registered nurse in the State of Nebraska;

(2) One member shall be a licensed physician and surgeon in the State of Nebraska;

(3) One member shall be a licensed dentist in the State of Nebraska;

(4) One member shall be a licensed pharmacist in the State of Nebraska;

(5) ~~One member~~ Three members shall be a ~~representative representatives~~ of the Department of Health and Human Services with interest in or responsibilities for aging programs, medicaid, and regulation and licensure of nursing homes;

~~(6) One member shall be a representative of the Department of Health and Human Services Regulation and Licensure;~~

~~(7) One member shall be a representative of the Department of Health and Human Services Finance and Support;~~

~~(8) (6) One member shall be a representative of an agency of state or local government, other than the Department of Health and Human Services, Regulation and Licensure,~~ with interests in or responsibilities for nursing homes or programs related thereto;

~~(9) (7) Four members shall be laypersons representative of the public;~~

~~(10) (8) Two members shall be administrators or owners of proprietary nursing homes; and~~

~~(11) (9) Two members shall be administrators or owners of voluntary nursing homes.~~

Members serving on the operative date of this act may serve until a replacement is appointed.

Sec. 646. Section 71-6048, Reissue Revised Statutes of Nebraska, is amended to read:

71-6048 The council shall meet at least once during each calendar

year and upon call of its chairperson or at the written request of a majority of its members. The council shall annually elect one of its members as chairperson and one of its members as secretary. The Director of ~~Regulation and Licensure~~ Public Health or his or her designee shall represent the department at all meetings.

Sec. 647. Section 71-6053, Reissue Revised Statutes of Nebraska, is amended to read:

71-6053 For the purpose of sections 71-6053 to 71-6068, unless the context otherwise requires:

(1) Accredited institution means a postsecondary educational institution approved by the board;

(2) Active license means a license issued by the board to an administrator who meets the continuing competency requirements and who submits the required fee;

(3) Administrator or nursing home administrator means any individual who meets the education and training requirements of section 71-6054 and is responsible for planning, organizing, directing, and controlling the operation of a home for the aged or infirm, a nursing home, or an integrated system or who in fact performs such functions, whether or not such functions are shared by one or more other persons. Notwithstanding this subdivision or any other provision of law, the administrator of an intermediate care facility for the mentally retarded may be either a licensed nursing home administrator or a qualified mental retardation professional;

(4) Administrator-in-training means a person who is undergoing training to become a nursing home administrator and is directly supervised in a home for the aged or infirm or nursing home by a certified preceptor;

(5) Board means the Board of Examiners in Nursing Home Administration;

(6) Certified preceptor means a person who is currently licensed by the State of Nebraska as a nursing home administrator, has three years of experience as a nursing home administrator, has practiced within the last two years in a home for the aged or infirm or a nursing home, and is approved by the board to supervise an administrator-in-training or a person in a mentoring program;

(7) Core educational requirements means courses necessary for licensure as a nursing home administrator and includes courses in patient care and services, social services, financial management, administration, and rules, regulations, and standards relating to the operation of a health care facility;

(8) Degree or advanced degree means a baccalaureate, master's, or doctorate degree from an accredited institution and which includes studies in the core educational requirements;

(9) Degree or advanced degree in health care means a baccalaureate, master's, or doctorate degree from an accredited institution in health care, health care administration, or services;

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

(11) Home for the aged or infirm or nursing home means any institution or facility licensed as a nursing facility or a skilled nursing facility by the department pursuant to the Health Care Facility Licensure Act, whether proprietary or nonprofit, including, but not limited to, homes for the aged or infirm owned or administered by the federal or state government or an agency or political subdivision thereof;

(12) Integrated system means a health and human services organization offering different levels of licensed care or treatment on the same premises;

(13) Internship means that aspect of the educational program of the associate degree in long-term care administration which allows for practical experience in a home for the aged or infirm or nursing home and occurs under the supervision of a certified preceptor;

(14) License means permission to engage in nursing home administration which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisites and qualifications that allow them to perform nursing home administration tasks and use the title nursing home administrator;

(15) Nursing degree means a degree or diploma in nursing from an accredited program of nursing approved by the Board of Nursing;

(16) Previous work experience means at least two years working full time in a nursing home or home for the aged or infirm or previous work experience in health care administration; and

(17) Previous work experience in health care administration means at least two years working full time as an administrator or director of



nursing of a hospital with a long-term care unit or assisted-living facility or director of nursing in a nursing home or home for the aged or infirm.

Sec. 648. Section 71-6059, Reissue Revised Statutes of Nebraska, is amended to read:

71-6059 Every license shall be in the form of a certificate under the name and seal of the department and signed by the chairperson, the vice-chairperson, the secretary of the board, and ~~the Director of Regulation and Licensure or his or her designee.~~ a representative of the department. A copy of all licenses shall be retained in the department and shall be given the same number as has been assigned to the licensee in the other records of the department. Every licensed nursing home administrator shall keep such license displayed in the office or in the place where he or she practices.

Sec. 649. Section 71-6065, Reissue Revised Statutes of Nebraska, is amended to read:

71-6065 (1) The Board of Examiners in Nursing Home Administration is created. The board shall be under the supervision of the department and shall consist of a designated representative of the ~~Policy Cabinet described in section 81-3009~~ department and the following members appointed by the State Board of Health: (a) Two members who hold active licenses and are currently employed in the management, operation, or ownership of proprietary homes for the aged or infirm or nursing homes that serve the aged or infirm in Nebraska; (b) two members who hold active licenses and are currently employed in the management or operation of a nonprofit home for the aged or infirm or nursing home or hospital caring for chronically ill or infirm, aged patients; (c) one member who is a member of the faculty of a college or university located in the state who is actively engaged in a teaching program relating to business administration, social work, gerontology, or some other aspect of the administration of health care facilities; (d) one member who is a licensed physician and surgeon with a demonstrated interest in long-term care; (e) one member who is a licensed registered nurse; and (f) two members who are laypersons, at least the age of majority, residents of this state for at least five years preceding appointment, and representative of consumer viewpoints. The members of the board shall serve as members of such board until the expiration of their respective terms or until their successors have been appointed and qualified. Each appointed member who is an administrator shall be licensed pursuant to sections 71-6053 to 71-6068.

(2) The appointed members shall be appointed for terms of three years, and the terms shall be staggered so that the terms of three appointed members of the board expire each year. The term of each member shall commence on the first day of December following the expiration of the term of the member whom such person succeeds. A vacancy in any appointive position on the board shall be filled for the unexpired portion of the term by appointment by the State Board of Health in the same manner as original appointments are made. Appointed members shall serve until their successors are appointed and qualified.

(3) The State Board of Health shall have power to remove from office at any time any member of the board after a public hearing pursuant to the Administrative Procedure Act for physical or mental incapacity to carry out the duties of a board member, for continued neglect of duty, for incompetency, for acting beyond the individual member's scope of authority, for malfeasance in office, for any cause for which a license may be suspended or revoked, or for a lack of licensure.

(4) The department shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for members of the board and which establish procedures in the case such a conflict arises.

Sec. 650. Section 71-6068, Reissue Revised Statutes of Nebraska, is amended to read:

71-6068 Whenever the ~~Department of Health and Human Services Regulation and Licensure~~ department conducts an investigation or hearing regarding loss of medicaid or medicare certification of a nursing home or suspension or revocation of the license of a nursing home, the board may hold a hearing to determine whether there is cause to suspend, limit, revoke, or deny the license of a nursing home administrator.

Sec. 651. Section 71-6103, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6103 For purposes of the Occupational Therapy Practice Act, unless the context otherwise requires:

(1) Active license means the license of a person who is acting, practicing, functioning, and working in compliance with the requirements of a license;

(2) Association means a recognized national or state association for occupational therapy;

(3) Board means the Board of Occupational Therapy Practice established by section 71-6115;

(4) Credentialing means the process of obtaining state approval to provide health care services or human services or to change aspects of a current approval and includes, but is not limited to, granting permission to use a protected title that signifies that a person is qualified to provide the services within the scope of practice of a profession;

(5) Deep thermal agent modalities means therapeutic ultrasound and phonophoresis. Deep thermal agent modalities does not include the use of diathermy or lasers;

(6) Department means the Division of Public Health of the Department of Health and Human Services; ~~Regulation and Licensure;~~

(7) Electrotherapeutic agent modalities means neuromuscular electrical stimulation, transcutaneous electrical nerve stimulation, and iontophoresis. Electrotherapeutic agent modalities does not include the use of ultraviolet light;

(8) Mechanical devices means intermittent compression devices. Mechanical devices does not include devices to perform spinal traction;

(9) Occupational therapist means a person holding an active license to practice occupational therapy;

(10) (a) Occupational therapy means the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independent function, prevent further disability, and achieve and maintain health and productivity.

(b) Occupational therapy encompasses evaluation, treatment, and consultation and may include (i) remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological, or neurological processes, (ii) adaptation of task, process, or the environment, or the teaching of compensatory techniques, in order to enhance performance, (iii) disability prevention methods and techniques which facilitate the development or safe application of performance skills, and (iv) health promotion strategies and practices which enhance performance abilities;

(11) Occupational therapy aide means a person who is not licensed by the board and who provides supportive services to occupational therapists and occupational therapy assistants;

(12) Occupational therapy assistant means a person holding an active license to assist in the practice of occupational therapy;

(13) Physical agent modalities means modalities that produce a biophysiological response through the use of water, temperature, sound, electricity, or mechanical devices; and

(14) Superficial thermal agent modalities means hot packs, cold packs, ice, fluidotherapy, paraffin, water, and other commercially available superficial heating and cooling technologies.

Sec. 652. Section 71-6208, Reissue Revised Statutes of Nebraska, is amended to read:

71-6208 Director shall mean the Director of ~~Regulation and Licensure.~~ Public Health of the Division of Public Health.

Sec. 653. Section 71-6221, Reissue Revised Statutes of Nebraska, is amended to read:

71-6221 (1) After January 1, 1985, a health profession shall be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) Regulation of the profession does not impose significant new economic hardship on the public, significantly diminish the supply of qualified practitioners, or otherwise create barriers to service that are not consistent with the public welfare and interest;

(c) The public needs, and can reasonably be expected to benefit from, assurance of initial and continuing professional ability by the state; and

(d) The public cannot be effectively protected by other means in a more cost-effective manner.

(2) If it is determined that practitioners of a health profession not currently regulated are prohibited from the full practice of their profession in Nebraska, then the following criteria shall be used to determine whether regulation is necessary:

(a) Absence of a separate regulated profession creates a situation of harm or danger to the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) Creation of a separate regulated profession would not create a significant new danger to the health, safety, or welfare of the public;

(c) Creation of a separate regulated profession would benefit the health, safety, or welfare of the public; and

(d) The public cannot be effectively protected by other means in a more cost-effective manner.

(3) After March 18, 1988, the scope of practice of a regulated health profession shall be changed only when:

(a) The present scope of practice or limitations on the scope of practice create a situation of harm or danger to the health, safety, or welfare of the public and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The proposed change in scope of practice does not create a significant new danger to the health, safety, or welfare of the public;

(c) Enactment of the proposed change in scope of practice would benefit the health, safety, or welfare of the public; and

(d) The public cannot be effectively protected by other means in a more cost-effective manner.

(4) The Department of Health and Human Services Regulation and Licensure Division of Public Health shall, by rule and regulation, establish standards for the application of each criterion which shall be used by the review bodies in recommending whether proposals for credentialing or change in scope of practice meet the criteria.

Sec. 654. Section 71-6301, Reissue Revised Statutes of Nebraska, is amended to read:

71-6301 For purposes of the Asbestos Control Act, unless the context otherwise requires:

(1) Asbestos means asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite;

(2) Asbestos encapsulation project means activities which include the coating of asbestos-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing the continued release of asbestos fibers from the material into the air. Such project does not include the repainting of a previously painted nonfriable asbestos-containing surface which is not damaged primarily for improving the appearance of such surface;

(3) Asbestos enclosure project means activities which physically isolate friable asbestos and which control and contain fibers released from asbestos-containing material by constructing a permanent airtight barrier between the asbestos-containing material and the occupied building space;

(4) Asbestos occupation means an inspector, management planner, project designer, project monitor, supervisor, or worker;

(5) Asbestos project means an asbestos enclosure project, an asbestos encapsulation project, an asbestos removal project, an asbestos-related demolition project, or an asbestos-related dismantling project but does not include (a) any activities which affect three square feet or less or three linear feet or less of asbestos-containing material on or in a structure or equipment or any appurtenances thereto or (b) any activities physically performed by a homeowner, a member of the homeowner's family, or an unpaid volunteer on or in the homeowner's residential property of four units or less;

(6) Asbestos removal project means activities which include the physical removal of friable asbestos-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal. Such project also includes the physical removal of asbestos from a structure or equipment after such structure or equipment has been removed as part of an asbestos-related dismantling project;

(7) Asbestos-related demolition project means activities which include the razing of all or a portion of a structure which contains friable asbestos-containing materials or other asbestos-containing materials which may become friable when such materials are cut, crushed, ground, abraded, or pulverized;

(8) Asbestos-related dismantling project means activities which include the disassembly, handling, and moving of the components of any structure or equipment which has been coated with asbestos-containing material without first removing such material from the structure or from the equipment;

(9) Business entity means a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern involved in an asbestos project except an entity solely involved as a management planner or project designer;

(10) Certificate means an authorization issued by the department permitting an individual person to work in an asbestos occupation;

(11) Demolition means the wrecking, razing, or removal of any structure or load-supporting structural item of any structure, including any related material handling operations, and includes the intentional burning of any structure;

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

~~(13) Director means the Director of Regulation and Licensure or his or her designee;~~

~~(14)~~ (13) Enclosure means the construction of an airtight, impermeable, permanent barrier around asbestos-containing material to control the release of asbestos fibers into the air;

~~(15)~~ (14) Friable asbestos means asbestos in a form which can be crumbled, pulverized, or reduced to powder by hand pressure;

~~(16)~~ (15) Inspector means an individual who is certified by the department to identify and assess the condition of asbestos-containing material;

~~(17)~~ (16) Instructor means an individual who is approved by the department to teach an asbestos-related training course;

~~(18)~~ (17) License means an authorization issued by the department permitting a business entity to engage in an asbestos project;

~~(19)~~ (18) Management planner means an individual who is certified by the department to assess the hazard of materials containing asbestos, to determine the appropriate response actions, and to write management plans;

~~(20)~~ (19) Project designer means an individual who is certified by the department to formulate plans and write specifications for conducting asbestos projects;

~~(21)~~ (20) Project monitor means an individual who is certified by the department to observe abatement activities performed by contractors, to represent the building owner to ensure work is completed according to specifications and in compliance with statutes and regulations, and to perform air monitoring to determine final clearance;

~~(22)~~ (21) Project review means review of a licensed business entity's proposed asbestos project;

~~(23)~~ (22) Renovation means the altering of a structure, one or more structural items, or one or more equipment items in any way, including any asbestos project performed on a structure, structural item, or equipment item;

~~(24)~~ (23) Supervisor means an individual who is certified by the department to supervise and direct an asbestos project in accordance with the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to such act; and

~~(25)~~ (24) Worker means an individual who is certified by the department to clean, handle, repair, remove, encapsulate, haul, dispose of, or otherwise work with asbestos material in a nonsupervisory capacity.

Sec. 655. Section 71-6303, Reissue Revised Statutes of Nebraska, is amended to read:

71-6303 (1) The department shall administer the Asbestos Control Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out the act. The department shall adopt state standards governing asbestos projects and may adopt or incorporate part or all of any federal standards in the state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For a business entity license or license renewal, not less than two thousand dollars or more than five thousand dollars;

(b) For waiver on an emergency basis of a business entity license, not less than two thousand dollars or more than five thousand dollars;

(c) For waiver of a license for a business entity not primarily engaged in asbestos projects, not less than two thousand dollars or more than five thousand dollars;

(d) For approval of an initial training course, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(e) For approval of a review course or a four-hour course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if the inspection is required by the department;

(f) For an onsite inspection of an asbestos project other than an initial inspection, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three

onsite inspections per year during the period an actual asbestos project is in progress; and

(g) For a project review of each asbestos project of a licensed business entity which is equal to or greater than two hundred sixty linear feet or any combination which is equal to or greater than one hundred sixty square feet and linear feet, including any initial onsite inspection, not less than two hundred dollars or more than five hundred dollars.

Any such applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of three hundred dollars for a license and one hundred dollars for approval of a training course shall be retained by the department.

All fees shall be based on the costs of administering the Asbestos Control Act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an asbestos project, the department shall conduct an onsite inspection of each licensed business entity's procedures for performing asbestos projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for asbestos projects. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of asbestos occupations and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal government and any other public or private entity for the purposes of administering the act.

(8) The department shall establish and collect fees for issuance and renewal of certificates as provided in section 71-162 for persons certified under section 71-6310. The department shall adopt and promulgate rules and regulations to establish continuing competency requirements for persons certified under the act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a certified person may select as an alternative to continuing education.

Sec. 656. Section 71-6309, Reissue Revised Statutes of Nebraska, is amended to read:

71-6309 (1) In the event of an emergency in which, in the opinion of the ~~director,~~ department, there is created a situation of present and severe danger which poses an immediate threat to the public health, safety, and welfare, the ~~director~~ department may waive the requirement for licensure or certification upon application and payment of the fee prescribed by the department. Such emergency waiver shall be limited to the time required to take protective measures.

(2) The department may, on a case-by-case basis, approve an alternative to a specific worker protection requirement for an asbestos project if the business entity submits a written description of the alternative procedure and demonstrates to the department's satisfaction that the proposed alternative procedure provides equivalent protection to the health, safety, and welfare of all classes of asbestos occupations and the general public.

(3) If the business entity is not primarily engaged in asbestos projects, the department may waive the requirement for a license upon application and payment of the fee prescribed by the department if worker protection requirements are met or an alternative procedure is approved pursuant to subsection (2) of this section and the health, safety, and welfare of the general public is protected.

Sec. 657. Section 71-6319.15, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.15 Department means the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 658. Section 71-6319.28, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.28 Lead-based paint hazard means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, or

lead-contaminated paint that is deteriorated paint or is present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as identified by the ~~director, department.~~

Sec. 659. Section 71-6319.30, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.30 Lead-contaminated dust means surface dust in a residential dwelling or child-occupied facility that contains an area or mass concentration of lead at or in excess of levels identified by the ~~director, department.~~

Sec. 660. Section 71-6319.31, Reissue Revised Statutes of Nebraska, is amended to read:

71-6319.31 Lead-contaminated soil means bare soil on residential real property or on the property of a child-occupied facility that contains lead at or in excess of levels identified by the ~~director, department.~~

Sec. 661. Section 71-6321, Reissue Revised Statutes of Nebraska, is amended to read:

71-6321 (1) The department shall administer the Residential Lead-Based Paint Professions Certification Act.

(2) The department shall adopt and promulgate rules and regulations necessary to carry out such act. The department shall adopt state standards governing abatement projects and may adopt or incorporate part or all of any federal standards in such state standards so long as state standards are no less stringent than federal standards.

(3) The department shall prescribe fees based upon the following schedule:

(a) For an annual firm certificate or certificate renewal, not less than two hundred dollars or more than five hundred dollars;

(b) For accreditation of a training program, not less than one thousand dollars or more than two thousand five hundred dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(c) For accreditation of a review course or a course on Nebraska law, rules, and regulations, not less than five hundred dollars or more than one thousand dollars, which fee shall include one onsite inspection if such inspection is required by the department;

(d) For onsite inspections other than initial inspections, not less than one hundred fifty dollars or more than two hundred fifty dollars. Such fees shall not be assessed for more than three onsite inspections per year during the period an actual abatement project is in progress; and

(e) For a project review of each abatement project of a certified firm, not less than two hundred dollars or more than five hundred dollars.

Any such applicant whose application is rejected shall be allowed the return of the application fee, except that an administrative charge of one hundred dollars for a firm certificate and for accreditation of a training program shall be retained by the department.

All fees shall be based on the costs of administering the act. In addition to the fees prescribed in this section, the department may charge and receive the actual costs for board, room, and travel by employees in excess of three hundred dollars, which costs shall not exceed the amounts allowable in sections 81-1174 to 81-1177. All such fees collected by the department shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. Money credited to the fund pursuant to this section shall be used by the department for the purpose of administering the act.

(4) At least once a year during the continuation of an abatement project the department shall conduct an onsite inspection of each certified firm's procedures for performing abatement projects.

(5) The department may enter into agreements or contracts with public agencies to conduct any inspections required under the act if such agencies have the appropriate certification or accreditation as described in the act.

(6) The department shall adopt and promulgate rules and regulations defining work practices for abatement projects, for the certification of lead-based paint professions, for the accreditation of training programs, for the accreditation of training program providers, for the dissemination of prerenovation information to homeowners and occupants, for the facilitation of compliance with federal lead-based paint hazard control grant programs, and for the implementation of lead-based paint compliance monitoring and enforcement activities. The department may provide for alternatives to specific work practices when the health, safety, and welfare of all classes of lead-based paint professions and the general public are adequately protected.

(7) The department may apply for and receive funds from the federal

government and any other public or private entity for the purposes of administering the act. Any funds applied for, received, or used by the department or any political subdivision from the federal government or any public entity may be used only to abate lead-based paint hazards and for the administration of lead-based paint programs which address health and environmental hazards caused by lead-based paint.

(8) The department shall establish and collect certification fees and recertification fees as provided in section 71-162 for individuals certified under section 71-6326. The department shall adopt and promulgate rules and regulations to establish continuing competency requirements for persons certified under the act. Continuing education is sufficient to meet continuing competency requirements. The requirements may also include, but not be limited to, one or more of the continuing competency activities listed in section 71-161.09 which a certified person may select as an alternative to continuing education.

Sec. 662. Section 71-6602, Reissue Revised Statutes of Nebraska, is amended to read:

71-6602 As used in sections 71-6601 to 71-6615, unless the context otherwise requires:

(1) Activities of daily living ~~shall mean~~ means assistance with ambulation, toileting, feeding, and similar activities;

(2) Basic therapeutic care ~~shall mean~~ means basic health care procedures, including, but not limited to, measuring vital signs, applying hot and cold applications and nonsterile dressings, and assisting with, but not administering, internal and external medications which are normally self-administered. Basic therapeutic care ~~shall~~ does not include health care procedures which require the exercise of nursing or medical judgment;

(3) Department ~~shall mean~~ means the Department of Health and Human Services; ~~Regulation and Licensure;~~

(4) Home health agency ~~shall mean~~ means a home health agency as defined in section 71-417;

(5) Home health aide ~~shall mean~~ means a person who is employed by a home health agency to provide personal care, assistance with the activities of daily living, and basic therapeutic care to patients of the home health agency;

(6) Personal care ~~shall mean~~ means bathing, hair care, nail care, shaving, dressing, oral care, and similar activities;

(7) Supervised practical training ~~shall mean~~ means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual under the direct supervision of a registered nurse or licensed practical nurse; and

(8) Vital signs ~~shall mean~~ means temperature, pulse, respiration, and blood pressure.

Sec. 663. Section 71-6721, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-6721 For purposes of the Medication Aide Act:

(1) Ability to take medications independently means the individual is physically capable of (a) the act of taking or applying a dose of a medication, (b) taking or applying the medication according to a specific prescription or recommended protocol, and (c) observing and monitoring himself or herself for desired effect, side effects, interactions, and contraindications of the medication and taking appropriate actions based upon those observations;

(2) Administration of medication includes, but is not limited to (a) providing medications for another person according to the five rights, (b) recording medication provision, and (c) observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication;

(3) Caretaker means a parent, foster parent, family member, friend, or legal guardian who provides care for an individual;

(4) Child care facility means an entity or a person licensed under the Child Care Licensing Act;

(5) Competent individual means an adult who is the ultimate recipient of medication and who has the capability and capacity to make an informed decision about taking medications;

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

(7) Direction and monitoring means the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with the medication by a (a) competent individual for himself or herself, (b) caretaker, or (c) licensed health care professional;

(8) Facility means a health care facility or health care service as defined in section 71-413 or 71-415 or an entity or person certified by the ~~Department of Health and Human Services Regulation and Licensure or the Department of Health and Human Services Finance and Support department~~ to provide home and community-based services;

(9) Five rights means getting the right drug to the right recipient in the right dosage by the right route at the right time;

(10) Health care professional means an individual for whom administration of medication is included in the scope of practice;

(11) Home means the residence of an individual but does not include any facility or school;

(12) Intermediate care facility for the mentally retarded has the definition found in section 71-421;

(13) Informed decision means a decision made knowingly, based upon capacity to process information about choices and consequences, and made voluntarily;

(14) Medication means any prescription or nonprescription drug intended for treatment or prevention of disease or to affect body function in humans;

(15) Medication aide means an individual who is listed on the medication aide registry operated by the ~~Department of Health and Human Services Regulation and Licensure,~~ department;

(16) Nonprescription drug has the definition found in section 71-1,142;

(17) Nursing home means any facility or a distinct part of any facility that provides care as defined in sections 71-420, 71-422, 71-424, and 71-429;

(18) Prescription drug has the definition of prescription drug or device as found in section 71-1,142;

(19) Provision of medication means the component of the administration of medication that includes giving or applying a dose of a medication to an individual and includes helping an individual in giving or applying such medication to himself or herself;

(20) PRN means an administration scheme in which a medication is not routine, is taken as needed, and requires assessment for need and effectiveness;

(21) Recipient means a person who is receiving medication;

(22) Routine, with reference to medication, means the frequency of administration, amount, strength, and method are specifically fixed; and

(23) School means an entity or person meeting the requirements for a school set by Chapter 79.

Sec. 664. Section 71-6724, Reissue Revised Statutes of Nebraska, is amended to read:

71-6724 A medication aide, a facility using a medication aide, a child care facility using the services of a person licensed to operate a child care facility or a staff member of a child care facility, or a school using the services of a staff member of the school shall keep and maintain accurate medication administration records. The medication administration records shall be available to the Department of Health and Human Services ~~Regulation and Licensure,~~ the Department of Health and Human Services, and the State Department of Education for inspection and copying. The medication administration records shall include information and data the departments require by rules and regulations adopted under the Medication Aide Act.

Sec. 665. Section 71-6725, Reissue Revised Statutes of Nebraska, is amended to read:

71-6725 (1) The minimum competencies for a medication aide, a person licensed to operate a child care facility or a staff member of a child care facility, or a staff member of a school shall include (a) maintaining confidentiality, (b) complying with a recipient's right to refuse to take medication, (c) maintaining hygiene and current accepted standards for infection control, (d) documenting accurately and completely, (e) providing medications according to the five rights, (f) having the ability to understand and follow instructions, (g) practicing safety in application of medication procedures, (h) complying with limitations and conditions under which a medication aide may provide medications, and (i) having an awareness of abuse and neglect reporting requirements and any other areas as shall be determined by rules or regulations.

(2) The Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt and promulgate rules and regulations setting minimum standards for competencies listed in subsection (1) of this section and methods for competency assessment of medication aides. The Department of Health and Human Services shall adopt and promulgate rules and regulations



setting methods for competency assessment of the person licensed to operate a child care facility or staff of child care facilities. The State Department of Education shall adopt and promulgate rules and regulations setting methods for competency assessment of the school staff member.

(3) A medication aide (except one who is employed by a nursing home, an intermediate care facility for the mentally retarded, or an assisted-living facility), a person licensed to operate a child care facility or a staff member of a child care facility, or a staff member of a school shall not be required to take a course. The medication aide shall be assessed to determine that the medication aide has the competencies listed in subsection (1) of this section.

(4) A medication aide providing services in an assisted-living facility as defined in section 71-406, a nursing home, or an intermediate care facility for the mentally retarded shall be required to have completed a forty-hour course on the competencies listed in subsection (1) of this section and competency standards established through rules and regulations as provided for in subsection (2) of this section, except that a medication aide who has, prior to January 1, 2003, completed a twenty-hour course and passed an examination developed and administered by the Department of Health and Human Services ~~Regulation and Licensure~~ may complete a second twenty-hour course supplemental to the first twenty-hour course in lieu of completing the forty-hour course. The department shall adopt and promulgate rules and regulations regarding the procedures and criteria for curriculum. Competency assessment shall include passing an examination developed and administered by the department. Criteria for establishing a passing standard for the examination shall be established in rules and regulations.

(5) Medication aides providing services in nursing homes or intermediate care facilities for the mentally retarded shall also meet the requirements set forth in section 71-6039.

Sec. 666. Section 71-6732, Reissue Revised Statutes of Nebraska, is amended to read:

71-6732 Except as provided by section 71-6731, an applicant or registrant who desires to contest an action or to further contest an affirmed or modified action shall do so in the manner provided in the Administrative Procedure Act for contested cases. The chief medical officer as designated in section 6 of this act shall be the decisionmaker in a contested case under this section. The hearings on a petition for judicial review of any final decision regarding an action for an alleged violation shall be set for hearing at the earliest possible date. The times for pleadings and hearings in such action shall be set by the judge of the court with the object of securing a decision at the earliest possible time.

Sec. 667. Section 71-6743, Reissue Revised Statutes of Nebraska, is amended to read:

71-6743 The Department of Health and Human Services ~~Regulation and Licensure~~ may adopt and promulgate rules and regulations which shall ensure proper storage, handling, and disposal of medication in facilities and schools as defined in section 71-6721.

Sec. 668. Section 71-7012, Reissue Revised Statutes of Nebraska, is amended to read:

71-7012 The Breast and Cervical Cancer Advisory Committee is established. The committee consists of the members of the Mammography Screening Committee serving immediately prior to September 9, 1995, and eight additional members appointed by the ~~Director of Health and Human Services~~ chief executive officer of the department or his or her designee who have expertise or a personal interest in cervical cancer. The committee shall consist of not more than twenty-four volunteer members, at least eight of whom are women, appointed by the ~~director~~ chief executive officer or his or her designee. Members of the committee shall be persons interested in health care, the promotion of breast cancer screening, and cervical cancer and shall be drawn from both the private sector and the public sector. At least one member shall be a person who has or who has had breast cancer, one member shall be a radiologist, and one member shall be a medical radiographer.

Of the initial members of the committee, four shall be appointed for terms of one year and four shall be appointed for terms of two years. Thereafter all appointments shall be for terms of two years. All members shall serve until their successors are appointed. No member shall serve more than two successive two-year terms. Vacancies in the membership of the committee for any cause shall be filled by appointment by the ~~director~~ chief executive officer or his or her designee for the unexpired term.

Duties of the committee shall include, but not be limited to, recommending guidelines for the program established under section 71-7002, developing and monitoring the schedule of fees established pursuant to section

71-7009, encouraging payment of public and private funds to the Breast and Cervical Cancer Cash Fund, researching and recommending to the department reimbursement limits, planning and implementing outreach and educational programs to Nebraska women, advising the department on its operation of the early detection of breast and cervical cancer grant from the United States Department of Health and Human Services, encouraging payment of public and private funds to the fund, and researching and recommending to the department appropriate definitive diagnostic procedures which may be reimbursed. Members of the committee shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 669. Section 71-7105, Reissue Revised Statutes of Nebraska, is amended to read:

71-7105 There is hereby created the Critical Incident Stress Management Council. The council shall be composed of ~~the Director of Regulation and Licensure, the Director of Health and Human Services,~~ two representatives of the Department of Health and Human Services, the State Fire Marshal, the Superintendent of Law Enforcement and Public Safety, and the Adjutant General as director of the Nebraska Emergency Management Agency. The council shall specify the organizational and operational goals for the program and shall provide overall policy direction for the program.

Sec. 670. Section 71-7107, Reissue Revised Statutes of Nebraska, is amended to read:

71-7107 The Department of Health and Human Services ~~Regulation and Licensure~~ shall be the lead agency for the program. The department shall:

- (1) Provide office support to program activities;
- (2) Provide necessary equipment for the program and participants;
- (3) Provide staff support to the council;
- (4) Adopt and promulgate rules and regulations to implement the program;
- (5) Recruit hospital personnel and emergency medical workers to be trained as critical incident stress management peers;
- (6) Participate in the training and continuing education of such peers and mental health professionals; and
- (7) Appoint a director for the program who shall be an employee of the department and shall be the chairperson of the committee.

Sec. 671. Section 71-7110, Reissue Revised Statutes of Nebraska, is amended to read:

71-7110 Each critical incident stress management region shall have a regional management committee composed of representatives of the Department of Health and Human Services, ~~Regulation and Licensure,~~ the State Fire Marshal, and the Nebraska State Patrol and a regional clinical director. The regional clinical director shall have a graduate degree in a mental health discipline. The regional management committee shall be responsible for the implementation and coordination of the program in the region according to the specifications developed by the council and Interagency Management Committee. The regional management committee shall develop critical incident stress management teams to facilitate the stress management process.

Sec. 672. Section 71-7434, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7434 Department means the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 673. Section 71-7450, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7450 (1) Licensure activities under the Wholesale Drug Distributor Licensing Act shall be funded by license fees. An applicant for an initial or renewal license under the act shall pay a license fee as provided in this section.

(2) License fees shall include (a) a base fee of fifty dollars and (b) an additional fee of not more than five hundred dollars based on variable costs to the department of inspections and of receiving and investigating complaints, other similar direct and indirect costs, and other relevant factors as determined by the department.

(3) If the licensure application is denied, the license fee shall be returned to the applicant, except that the department may retain up to twenty-five dollars as an administrative fee and may retain the entire license fee if an inspection has been completed prior to such denial.

(4) The department shall also collect a fee for reinstatement of a license that has lapsed or has been suspended or revoked. The department shall collect a fee of ten dollars for a duplicate original license.

(5) The department shall remit all license fees collected under this section to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund.

License fees collected under this section shall only be used for activities related to the licensure of wholesale drug distributors.

Sec. 674. Section 71-7457, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7457 (1) A wholesale drug distributor license may be denied, refused renewal, suspended, limited, or revoked by the ~~Director of Regulation and Licensure~~ department when the ~~director~~ department finds that the applicant or licensee has violated any provisions of the Wholesale Drug Distributor Licensing Act or of the rules and regulations adopted and promulgated under the act or has committed any acts or offenses set forth in section 71-147, 71-148, or 71-7459. All actions and proceedings shall be carried out as specified in sections 71-147 to 71-161.19.

(2) For purposes of this section, applicant or licensee includes, but is not limited to, the board of directors, chief executive officer, and other officers of the applicant or the entity to which the license is issued and the manager of each site if more than one site is located in this state.

Sec. 675. Section 71-7603, Reissue Revised Statutes of Nebraska, is amended to read:

71-7603 ~~The Director of Health and Human Services, the Director of Regulation and Licensure, and the Director of Finance and Support~~ Department of Health and Human Services shall annually report to the Governor and the Legislature on the status of health care expenditures in Nebraska. Such report shall also address the access of Nebraskans to health care services, issues related to quality assurance, differences in the health care status of persons in different parts of Nebraska, changes needed in the education of health care personnel in Nebraska, and recommendations for improvements in the health care delivery system generally.

Sec. 676. Section 71-7606, Reissue Revised Statutes of Nebraska, is amended to read:

71-7606 (1) The purpose of the Nebraska Health Care Funding Act is to provide for the use of dedicated revenue for health-care-related expenditures.

(2) Any funds appropriated or distributed under the act shall not be considered ongoing entitlements or obligations on the part of the State of Nebraska and shall not be used to replace existing funding for existing programs.

(3) No funds appropriated or distributed under the act shall be used for abortion, abortion counseling, referral for abortion, school-based health clinics, or research or activity of any kind involving the use of human fetal tissue obtained in connection with the performance of an induced abortion or involving the use of human embryonic stem cells or for the purpose of obtaining other funding for such use.

(4) ~~The Department of Health and Human Services and the Department of Health and Human Services Finance and Support~~ shall report annually to the Legislature and the Governor regarding the use of funds appropriated under the act and the outcomes achieved from such use.

Sec. 677. Section 71-7607, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7607 (1) The Nebraska Medicaid Intergovernmental Trust Fund is created. The fund shall include revenue received from governmental nursing facilities receiving payments for nursing facility services under the medical assistance program established pursuant to the Medical Assistance Act. ~~The Department of Health and Human Services Finance and Support~~ shall remit such revenue to the State Treasurer for credit to the fund. The department shall adopt and promulgate rules and regulations to establish procedures for participation by governmental nursing facilities and for the receipt of such revenue under this section. Money from the Nebraska Medicaid Intergovernmental Trust Fund shall be transferred to the Nebraska Health Care Cash Fund as provided in section 71-7611.

(2) The department may use revenue in the Nebraska Medicaid Intergovernmental Trust Fund to offset any unanticipated reductions in medicaid funds received under this section.

(3) Any money in the Nebraska Medicaid Intergovernmental Trust 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. 678. Section 71-7608, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7608 The Nebraska Tobacco Settlement Trust Fund is created. The fund shall include any settlement payments or other revenue received by the State of Nebraska in connection with any tobacco-related litigation to which the State of Nebraska is a party. The Department of Health and Human Services

~~Finance and Support~~ shall remit such revenue to the State Treasurer for credit to the fund, except that of such revenue received on or after April 1, 2005, two million five hundred thousand dollars shall be credited annually to the Tobacco Prevention and Control Cash Fund. Subject to the terms and conditions of such litigation, money from the Nebraska Tobacco Settlement Trust Fund shall be transferred to the Nebraska Health Care Cash Fund as provided in section 71-7611. Any money in the Nebraska Tobacco Settlement Trust 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. 679. Section 71-7614, Reissue Revised Statutes of Nebraska, is amended to read:

71-7614 (1) The Nebraska Health Care Council is created. The council shall consist of a chairperson and eight additional members appointed by the Governor with the approval of a majority of the Legislature. The members shall be appointed for staggered three-year terms. The council shall include at least one consumer, one health care provider, and one member of a racial or ethnic minority. ~~The Director of Finance and Support or his or her designee~~ The chief executive officer of the Department of Health and Human Services or his or her designee shall be a nonvoting, ex officio member of the council. Any vacancy shall be filled in the same manner as the original appointment for the unexpired term. Members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. ~~The Department of Health and Human Services Finance and Support~~ department shall provide staff support for the council. ~~The Department of Health and Human Services and the Department of Health and Human Services Regulation and Licensure shall also assist the Department of Health and Human Services Finance and Support and shall assist~~ the council as may be necessary.

(2) Funds as appropriated by the Legislature from the Nebraska Health Care Cash Fund shall be used for grants awarded by the council for public health purposes as defined by the council and adopted in rules and regulations of the ~~Department of Health and Human Services Finance and Support.~~ department. At least fifteen percent of the funds appropriated for such grants shall be awarded by the council to improve racial and ethnic minority health. Grants awarded under this section shall not exceed three years in duration, except that extensions of up to one year may be granted by the council for good cause. The council shall report all such extensions to the ~~Department of Health and Human Services Finance and Support~~ department and to the Health and Human Services Committee of the Legislature.

(3) ~~The Department of Health and Human Services Finance and Support~~ department shall:

(a) In consultation with the council, develop criteria for the awarding of grants from the fund pursuant to this section;

(b) Approve or disapprove decisions by the council regarding the selection of projects to be funded and the distribution of project funding;

(c) In consultation with the council, establish standards, formats, procedures, and timelines for the successful implementation of approved projects;

(d) In consultation with the council, assist grant recipients in determining the effectiveness of the project and measure the accomplishment of the grant objectives;

(e) Provide annual reports to the Governor and the Legislature concerning the projects. Each report shall include a listing of priorities established by the council for grants awarded under this section, the number of applicants and approved applicants for such grants, an overview of the various funded projects, and detailed reports of the cost of such projects;

(f) In consultation with the council, adopt and promulgate rules and regulations establishing criteria, standards, and procedures regarding the selection and administration of funded projects; and

(g) Require recipients of grants under this section to provide such data relating to the funded projects as the department deems necessary.

Sec. 680. Section 71-7617, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7617 ~~The Department of Health and Human Services Regulation and Licensure~~ shall contract with the health clinics of Nebraska's federally recognized Native American tribes, Indian health organizations, or other public health organizations that have a substantial Native American clientele to provide educational and public health services targeted to Native American populations. The following educational and public health services may be considered by the department for such contracts:

(1) Identification and enrollment of children in state and federal programs providing access to health insurance or health care;

(2) Efforts to educate children and adults about the health risks associated with smoking and tobacco use, alcohol abuse, and other substances that threaten health and well-being and other activities designed to reduce the rate of substance abuse;

(3) Prenatal care education for women and notification of programs that improve prenatal care;

(4) Education focusing on proper diet and the importance of physical activity to good health;

(5) Blood pressure and cholesterol screenings;

(6) Support of efforts to identify children and adults at risk for depression and other mental health conditions and provide mental health counseling to prevent suicide;

(7) Parenting classes and the promotion of such programs;

(8) Efforts to discourage drinking and driving and to encourage the use of seat belts;

(9) Tests and education for acquired immunodeficiency syndrome and other sexually transmitted diseases;

(10) Tests for pregnancy and referrals to prenatal care when directed;

(11) Educational efforts aimed at reducing teen pregnancies and other unintended pregnancies;

(12) Case management for pregnant women, children, or adults with special health care needs;

(13) Efforts to make health care prevention services more affordable or accessible;

(14) Matching funds for state and federal programs designed to address public health needs;

(15) Staffing needs for public health services or education including the recruitment and training of Native American providers;

(16) Cervical and breast cancer detection services and other prevention components of comprehensive women's health services;

(17) Education to prevent and reduce the occurrence of diabetes; and

(18) Other prevention or educational activities or programs that address the health, safety, or self-sufficiency of Native American persons.

Sec. 681. Section 71-7618, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7618 During each fiscal year, the ~~Director of Regulation and Licensure~~ Department of Health and Human Services shall contract with the health clinics of Nebraska's federally recognized Native American tribes as approved by the tribal councils, Indian health organizations, or other public health organizations that have a substantial Native American clientele to provide educational and public health services pursuant to section 71-7617. The ~~director~~ department shall fund all eligible contracts until the appropriation to this program is depleted, but shall give priority to contracts which meet the following criteria:

(1) Programs or activities that directly impact the health and well-being of children;

(2) Programs or activities which serve the greater number of people over the longest period of time;

(3) Programs or activities that are part of a larger plan for strategic public health planning and implementation;

(4) Current programs or activities that have demonstrated success in improving public health or new programs or activities modeled on successful programs and activities; and

(5) Programs or activities that focus on primary prevention and show promise in reducing future health care expenditures.

Sec. 682. Section 71-7619, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7619 The Department of Health and Human Services ~~Regulation and Licensure~~ shall provide technical assistance and assessment of needs evaluations upon request to aid tribal councils in the development of contract proposals.

Sec. 683. Section 71-7620, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7620 The recipients of funds under the Native American Public Health Act shall submit a report on the activities funded each fiscal year. The report shall provide information as required by the ~~Director of Regulation and Licensure~~ Department of Health and Human Services to determine the effectiveness of the contract in meeting the goals of the Native American Public Health Act.

Sec. 684. Section 71-7621, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7621 If the ~~Director of Regulation and Licensure~~ Department of Health and Human Services determines that services are not being delivered in accordance with the contract, the ~~director department~~ may seek to recapture all or a portion of funds expended.

Sec. 685. Section 71-7622, Revised Statutes Cumulative Supplement, 2006, is amended to read:

71-7622 The Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt and promulgate rules and regulations to carry out the Native American Public Health Act and shall adhere to already established or adopted and promulgated rules and regulations for contracted services under the act.

Sec. 686. Section 71-7702, Reissue Revised Statutes of Nebraska, is amended to read:

71-7702 For purposes of the Health Care Facility-Provider Cooperation Act:

(1) Community planning ~~shall mean~~ means a plan which identifies (a) health-care-related resources, facilities, and services within the community, (b) the health care needs of the community, (c) gaps in services, (d) duplication of services, and (e) ways to meet health care needs;

(2) Cooperative agreement ~~shall mean~~ means an agreement among two or more health care facilities or other providers for the sharing, allocation, or referral of patients, personnel, instructional programs, equipment, support services and facilities, or medical, diagnostic, or laboratory facilities or procedures or other services traditionally offered or purchased by health care facilities or other providers;

(3) Department ~~shall mean~~ means the Department of Health and Human Services; ~~Regulation and Licensure;~~

(4) Health care facility ~~shall mean+~~ means:

(a) Any facility required to be licensed under the Health Care Facility Licensure Act or, if in another state, licensed in such state; and

(b) Any parent of a health care facility, health care facility subsidiary, or health care facility affiliate that provides medical or medically related diagnostic and laboratory services or engages in ancillary activities supporting those services; and

(5) Provider ~~shall mean~~ means any person licensed to provide health care services under Chapter 71 and engaged in the practice of medicine and surgery, osteopathic medicine, pharmacy, optometry, podiatry, physical therapy, or nursing.

Sec. 687. Section 71-8008, Reissue Revised Statutes of Nebraska, is amended to read:

71-8008 The Department of Health and Human Services ~~Regulation and Licensure~~ may adopt and promulgate rules and regulations to implement the Certified Industrial Hygienist Title Protection Act and to further regulate the use of the term certified industrial hygienist.

Sec. 688. Section 71-8211, Reissue Revised Statutes of Nebraska, is amended to read:

71-8211 Department means the Division of Public Health of the Department of Health and Human Services. ~~Regulation and Licensure.~~

Sec. 689. Section 71-8228, Reissue Revised Statutes of Nebraska, is amended to read:

71-8228 Regional medical director means a physician licensed under the Uniform Licensing Law who shall report to the ~~Director of Regulation and Licensure~~ Director of Public Health and carry out the regional plan for his or her region.

Sec. 690. Section 71-8231, Reissue Revised Statutes of Nebraska, is amended to read:

71-8231 State trauma medical director means a physician licensed under the Uniform Licensing Law who reports to the ~~Director of Regulation and Licensure~~ Director of Public Health and carries out duties under the Statewide Trauma System Act.

Sec. 691. Section 71-8236, Reissue Revised Statutes of Nebraska, is amended to read:

71-8236 The State Trauma Advisory Board is created. The board shall be composed of representatives knowledgeable in emergency medical services and trauma care, including emergency medical providers such as physicians, nurses, hospital personnel, prehospital or out-of-hospital providers, local government officials, state officials, consumers, and persons affiliated professionally with health science schools. The ~~Director of Regulation and Licensure~~ Director of Public Health or his or her designee shall appoint the members of the board for staggered terms of three years each. The department shall provide administrative support to the board. All members of the board may be reimbursed for their actual and necessary expenses incurred in the performance

of their duties as such members as provided in sections 81-1174 to 81-1177. The terms of members representing the same field shall not expire at the same time.

The board shall elect a chairperson and a vice-chairperson whose terms of office shall be for two years. The board shall meet at least twice per year by written request of the director or the chairperson.

Sec. 692. Section 71-8239, Reissue Revised Statutes of Nebraska, is amended to read:

71-8239 (1) The department, in consultation with and having solicited the advice of the State Trauma Advisory Board, shall establish the statewide trauma system.

(2) The department, with the advice of the board, shall adopt and promulgate rules and regulations to carry out the Statewide Trauma System Act.

(3) The ~~Director of Regulation and Licensure~~ Director of Public Health or his or her designee shall appoint the state trauma medical director and the regional medical directors.

Sec. 693. Section 71-8312, Reissue Revised Statutes of Nebraska, is amended to read:

71-8312 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. 694. Section 71-8313, Reissue Revised Statutes of Nebraska, is amended to read:

71-8313 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 71-8301 to 71-8314. 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. 695. Section 71-8503, Reissue Revised Statutes of Nebraska, is amended to read:

71-8503 For purposes of the Nebraska Telehealth Act:

(1) Department means the Department of Health and Human Services; ~~Finance and Support;~~

(2) Health care practitioner means a Nebraska medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the ~~Department of Health and Human Services Regulation and Licensure;~~ department;

(3) Telehealth means the use of telecommunications technology by a health care practitioner to deliver health care services within his or her scope of practice at a site other than the site where the patient is located; and

(4) Telehealth consultation means any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth but does not include a telephone conversation, electronic mail message, or facsimile transmission between a health care practitioner and a patient or a consultation between two health care practitioners.

Sec. 696. Section 72-249, Reissue Revised Statutes of Nebraska, is amended to read:

72-249 The Governor of the state is empowered and directed to receive from the United States all money that may be due or may become due to the state, and it shall be his or her duty to deposit the same without delay in the treasury of the state, taking the State Treasurer's receipts therefor. All money received from the United States, for the particular benefit of any institution, department, or activity under the jurisdiction of the Department of Health and Human Services, ~~or the Department of Correctional Services, or the Department of Health and Human Services Finance and Support,~~ shall be paid to the particular institution, department, or activity for the benefit of which it was received, as directed by the proper department, and by such institution, department, or activity deposited with the State Treasurer not

later than the first day of the month following that in which received.

Sec. 697. Section 75-303.01, Reissue Revised Statutes of Nebraska, is amended to read:

75-303.01 The Department of Health and Human Services ~~Finance and Support~~ or any agency organized under the Nebraska Community Aging Services Act may contract for transportation for its clients with a contractor which does not hold a certificate or which is not otherwise exempt under section 75-303 only if:

(1) The proposed contractor is the individual who will personally drive the vehicle in question;

(2) The only compensation to the contractor for the transportation is paid by the department at a rate no greater than that provided for reimbursement of state employees pursuant to section 81-1176 for the costs incurred in the transportation; and

(3) (a) There is no regulated motor carrier serving the area in which the client needs transportation, (b) the regulated motor carrier serving the area is incapable of providing the specific service in question by its own written statement or as determined by the commission upon application of the regulated motor carrier or the department, or (c) the regulated carrier cannot or will not provide such service at the rate specified in subsection (2) of section 75-303.02.

Sec. 698. Section 75-303.02, Reissue Revised Statutes of Nebraska, is amended to read:

75-303.02 (1) The commission, in consultation with the Department of Health and Human Services, ~~Finance and Support~~, shall adopt and promulgate rules and regulations governing minimum liability insurance requirements, equipment standards, driver qualification requirements, and the issuance and filing of notice for any contractor utilized by the department or any agency organized under the Nebraska Community Aging Services Act pursuant to section 75-303.01.

(2) The ~~Department of Health and Human Services~~ department or any agency organized under the Nebraska Community Aging Services Act shall reimburse common and contract carriers for transportation of passengers at a rate not to exceed the rate of reimbursement pursuant to section 81-1176 multiplied by three. The maximum reimbursement rate provided for in this subsection shall not apply when the carrier (a) transports such person wholly within the corporate limits of the city or village where the transportation of the person originated or (b) transports a disabled person as defined by the federal Americans with Disabilities Act of 1990 in a vehicle that is compliant with the regulations providing for the transportation of such disabled person.

Sec. 699. Section 75-303.03, Revised Statutes Cumulative Supplement, 2006, is amended to read:

75-303.03 (1) The Department of Health and Human Services ~~Finance and Support~~ may reimburse an individual for the costs incurred by such individual in the transportation of a person eligible to receive transportation services through the ~~Nebraska Health and Human Services System department~~ if:

(a) The individual is under contract with the ~~Nebraska Health and Human Services System~~ department and provides transportation to the eligible person; and

(b) The eligible person has chosen the individual to provide the transportation.

(2) The department shall reimburse for the costs incurred in the transportation at a rate no greater than that provided for reimbursement of state employees pursuant to section 81-1176.

(3) Transportation provided to an eligible person by an individual pursuant to this section does not constitute transportation for hire.

(4) The department may adopt and promulgate rules and regulations to implement this section.

Sec. 700. Section 76-1304, Reissue Revised Statutes of Nebraska, is amended to read:

76-1304 Unless the method of disposition is adopted for the purpose of evasion of the provisions of sections 76-1301 to 76-1315, such provisions shall not apply to offers or dispositions of any lot or unit in a retirement subdivision or community by a purchaser for his or her own account in a single or isolated transaction, nor shall such provisions apply to the following:

(1) Offers or dispositions of evidences of indebtedness secured by a mortgage or deed of trust of real estate;

(2) Offers or dispositions of securities or units of interest issued by a real estate investment trust regulated under any state or federal statute;

(3) The sale or lease of real estate under or pursuant to court



order;

(4) The disposition in any manner whatsoever of any unit of public housing under the administrative jurisdiction of a local public housing authority;

(5) Offers or dispositions of securities currently registered with the Director of Banking and Finance and under the provisions of the Securities Act of Nebraska; and

(6) Health care facilities licensed by the Department of Health and Human Services ~~Regulation and Licensure~~ under the Health Care Facility Licensure Act.

Sec. 701. Section 76-14,102, Reissue Revised Statutes of Nebraska, is amended to read:

76-14,102 If there is noncompliance by a tenant with section 76-1493 materially affecting health and safety or any condition which is ordered to be changed by the State Fire Marshal, the State Electrical Board, the Department of Health and Human Services, ~~Regulation and Licensure~~, or any other regulatory body with jurisdiction over either the park or the mobile home space that can be remedied by repair, replacement of a damaged item, or cleaning, and the tenant fails to comply as promptly as conditions require in case of emergency or within fourteen days after written notice by the landlord specifying the breach and requesting that the tenant remedy the breach or take reasonable steps to remedy it within that period of time, the landlord may enter the mobile home space, cause the work to be done in a skillful manner, and submit an itemized bill for the actual and reasonable cost or the fair and reasonable value as additional rent on the next date when periodic rent is due or, if the rental agreement has been terminated, for immediate payment. If the landlord is assessed any fine, cost, or charge as a result of the tenant's failure to comply with an order issued by the State Fire Marshal, the State Electrical Board, the Department of Health and Human Services, ~~Regulation and Licensure~~, or any other regulatory body with jurisdiction over either the park or the mobile home space, the landlord may require the tenant to pay such fine, cost, or charge.

Sec. 702. Section 77-912, Revised Statutes Cumulative Supplement, 2006, is amended to read:

77-912 The Director of Insurance shall transmit fifty percent of the taxes paid in conformity with Chapter 44, article 1, and Chapter 77, article 9, to the State Treasurer, forty percent of such taxes paid to the General Fund, and ten percent of such taxes paid to the Mutual Finance Assistance Fund promptly upon completion of his or her audit and examination and in no event later than May 1 of each year, except that:

(1) All fire insurance taxes paid pursuant to sections 44-150 and 81-523 shall be remitted to the State Treasurer for credit to the General Fund;

(2) All workers' compensation insurance taxes paid pursuant to section 44-150 shall be remitted to the State Treasurer for credit to the Compensation Court Cash Fund;

(3) Commencing with the premium and related retaliatory taxes for the taxable year ending December 31, 2001, and for each taxable year thereafter, all premium and related retaliatory taxes imposed by section 44-150 or 77-908 paid by insurers writing health insurance in this state shall be remitted to the Comprehensive Health Insurance Pool Distributive Fund; and

(4) All taxes paid pursuant to section 77-908 for capitation payments made in accordance with the Medical Assistance Act shall be remitted to the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund.

Sec. 703. Section 77-2602, Revised Statutes Cumulative Supplement, 2006, is amended to read:

77-2602 (1) Every person engaged in distributing or selling cigarettes at wholesale in this state shall pay to the Tax Commissioner of this state a special privilege tax. This shall be in addition to all other taxes. It shall be paid prior to or at the time of the sale, gift, or delivery to the retail dealer in the several amounts as follows: On each package of cigarettes containing not more than twenty cigarettes, sixty-four cents per package; and on packages containing more than twenty cigarettes, the same tax as provided on packages containing not more than twenty cigarettes for the first twenty cigarettes in each package and a tax of one-twentieth of the tax on the first twenty cigarettes on each cigarette in excess of twenty cigarettes in each package.

(2) Commencing July 1, 1994, and continuing until October 1, 2004, the State Treasurer shall place the equivalent of twenty-one cents of such tax in the General Fund. Commencing October 1, 2004, the State Treasurer shall place the equivalent of forty-nine cents of such tax in the General Fund. The

State Treasurer shall reduce the amount placed in the General Fund under this subsection by the amount prescribed in subdivision (3)(d) of this section. For purposes of this section, the equivalent of a specified number of cents of the tax shall mean that portion of the proceeds of the tax equal to the specified number divided by the tax rate per package of cigarettes containing not more than twenty cigarettes.

(3) The State Treasurer shall distribute the remaining proceeds of such tax in the following order:

(a) First, beginning July 1, 1980, the State Treasurer shall place the equivalent of one cent of such tax in the Nebraska Outdoor Recreation Development Cash Fund. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(b) Second, beginning July 1, 1993, the State Treasurer shall place the equivalent of three cents of such tax in the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund to carry out sections 81-637 to 81-640. For fiscal year distributions occurring after FY1998-99, the distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(c) Third, beginning July 1, 2001, and continuing until October 1, 2002, the State Treasurer shall place the equivalent of five cents of such tax in the Building Renewal Allocation Fund. Beginning October 1, 2002, and continuing until all the purposes of the Deferred Building Renewal Act have been fulfilled, the State Treasurer shall place the equivalent of seven cents of such tax in the Building Renewal Allocation Fund. The Legislature shall appropriate each fiscal year all sums inuring to the fund, plus interest earnings, for the Task Force for Building Renewal to be used to carry out its duties and to fulfill the purposes of the Deferred Building Renewal Act. Unexpended balances existing at the end of each fiscal year shall be, and are hereby, reappropriated. The distribution under this subdivision shall not be less than the amount distributed under this subdivision for FY1997-98. Any money needed to increase the amount distributed under this subdivision to the FY1997-98 amount shall reduce the distribution to the General Fund;

(d) Fourth, until July 1, 2009, the State Treasurer shall place in the Municipal Infrastructure Redevelopment Fund the sum of five hundred twenty thousand dollars each fiscal year to carry out the Municipal Infrastructure Redevelopment Fund Act. The Legislature shall appropriate the sum of five hundred twenty thousand dollars each year for fiscal year 2003-04 through fiscal year 2008-09;

(e) Fifth, beginning July 1, 2001, the State Treasurer shall place the equivalent of two cents of such tax in the Information Technology Infrastructure Fund;

(f) Sixth, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million dollars each fiscal year in the City of the Primary Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the one million dollars to be distributed pursuant to this subdivision;

(g) Seventh, beginning July 1, 2001, and continuing until June 30, 2016, the State Treasurer shall place one million five hundred thousand dollars each fiscal year in the City of the Metropolitan Class Development Fund. If necessary, the State Treasurer shall reduce the distribution of tax proceeds to the General Fund pursuant to subsection (2) of this section by such amount required to fulfill the one million five hundred thousand dollars to be distributed pursuant to this subdivision; and

(h) Eighth, beginning October 1, 2002, and continuing until October 1, 2004, the State Treasurer shall place the equivalent of twenty-eight cents of such tax in the Cash Reserve Fund.

(4) If, after distributing the proceeds of such tax pursuant to subsections (2) and (3) of this section, any proceeds of such tax remain, the State Treasurer shall place such remainder in the Nebraska Capital Construction Fund.

(5) The Legislature hereby finds and determines that the projects funded from the Municipal Infrastructure Redevelopment Fund and the Building Renewal Allocation Fund are of critical importance to the State of Nebraska. It is the intent of the Legislature that the allocations and appropriations made by the Legislature to such funds or, in the case of allocations for the Municipal Infrastructure Redevelopment Fund, to the particular municipality's

account not be reduced until all contracts and securities relating to the construction and financing of the projects or portions of the projects funded from such funds or accounts of such funds are completed or paid or, in the case of the Municipal Infrastructure Redevelopment Fund, the earlier of such date or July 1, 2009, and that until such time any reductions in the cigarette tax rate made by the Legislature shall be simultaneously accompanied by equivalent reductions in the amount dedicated to the General Fund from cigarette tax revenue. Any provision made by the Legislature for distribution of the proceeds of the cigarette tax for projects or programs other than those to (a) the General Fund, (b) the Nebraska Outdoor Recreation Development Cash Fund, (c) the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund, (d) the Municipal Infrastructure Redevelopment Fund, (e) the Building Renewal Allocation Fund, (f) the Information Technology Infrastructure Fund, (g) the City of the Primary Class Development Fund, (h) the City of the Metropolitan Class Development Fund, and (i) the Cash Reserve Fund shall not be made a higher priority than or an equal priority to any of the programs or projects specified in subdivisions (a) through (i) of this subsection.

Sec. 704. Section 77-2704.21, Reissue Revised Statutes of Nebraska, is amended to read:

77-2704.21 Sales and use taxes shall not be imposed on the gross receipts from the sale, lease, or rental of and the storage, use, or other consumption in this state of the entire purchase price of a motor vehicle purchased when the maximum amount allowed by law is contributed by the United States Department of Veterans Affairs or the Department of Health and Human Services ~~Finance and Support~~ for a disabled person. If the amount contributed is less than the maximum amount, the exemption shall be based on the portion of the purchase price contributed.

Sec. 705. Section 77-27,162, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,162 The Department of Revenue, the Department of Administrative Services, and the Department of Health and Human Services, ~~and the Department of Health and Human Services Finance and Support~~ shall develop and implement a collection system to carry out the intent of section 77-27,160.

Sec. 706. Section 77-27,222, Reissue Revised Statutes of Nebraska, is amended to read:

77-27,222 (1) For purposes of this section:

(a) Accredited means accredited by the National Association for Family Child Care, the National Association for the Education of Young Children, the National School-Age Care Alliance, or a comparable accreditation process approved by the State Department of Education;

(b) Business firm means any business entity, including a corporation, a fiduciary, a sole proprietorship, a partnership, a limited liability company, or a corporation subject to the state income tax imposed by section 77-2715 or 77-2734.02, an insurance company paying premium or related retaliatory taxes in this state pursuant to section 44-150 or 77-908, or a financial institution paying the tax imposed pursuant to sections 77-3801 to 77-3807;

(c) Costs incurred by the business firm in providing child care services for children of employees means the amounts expended by the business firm during the year for improvements to the premises for purposes of making the premises suitable in whole or in part for use as a child care facility, including furnishing the facility with fencing, landscaping, sidewalks, furniture, fixtures, equipment, supplies, and other improvements and materials reasonably required to operate a child care facility and the direct operating costs of staffing, operating, and maintaining a child care facility. The costs include the payroll taxes and employee benefit costs of staffing the child care facility and sales and use taxes on purchases included in the costs of providing child care, but not an allocation of the business firm's general, administrative, and other operating expenses. The costs do not include the acquisition of land or the construction of new buildings. The costs include payments to third parties to reimburse the third parties for amounts expended by them and which would have been costs incurred by the business firm in providing child care services if incurred directly by the business firm or to subsidize the cost of providing child care for the children of employees in such third parties' facilities; and

(d) Providing child care services means expending funds to improve, furnish, license, accredit, qualify for accreditation, staff, operate, or subsidize a child care facility licensed by the Department of Health and Human Services ~~Regulation and Licensure~~ which provides child care services to children of employees of the business firm or contracting with a child care

facility licensed by the department to provide child care services to children of such employees.

(2) For taxable years beginning or deemed to begin on or after January 1, 2007, under the Internal Revenue Code of 1986, as amended, any business firm which provides child care services shall be allowed a credit against the individual income tax, corporate income tax, premium or related retaliatory tax, or franchise tax equal to thirty percent of the costs incurred by the business firm in providing child care services for children of employees for each taxable year, up to fifty percent of such business firm's total tax liability. In the case of a sole proprietorship, partnership, or limited liability company which is taxed as a pass-through entity or a corporation which has in effect an election under subchapter S of the Internal Revenue Code, the maximum allowable amount of credit shall be fifty percent of the income tax liability determined as if such business firm had been a corporation subject to the state income tax imposed by section 77-2734.02. Such pass-through entities shall allocate the allowable credit among their proprietors, partners, members, or shareholders in the same manner as taxable income is allocated. In the case of a fiduciary, the maximum allowable amount of the credit shall be fifty percent of the income tax liability of the fiduciary computed without any deduction for distributions, and the allowable credit shall be allocated among the fiduciary and its beneficiaries in proportion to the taxable income included by each beneficiary in his or her Nebraska income tax returns. In the case of a corporation which is part of a unitary group as defined in section 77-2734.04 and which is included in the combined income tax return of such group, the unitary group shall be the business firm which is providing child care services. Entities which are disregarded for federal income tax purposes shall be disregarded for purposes of defining the business firm which is providing child care services. The credit shall only be used to reduce the tax liabilities of the business firm, or in the case of pass-through entities, the beneficiaries, proprietors, partners, members, or shareholders, for the year in which the costs were incurred. The credit may not be carried forward to the next taxable year. The credit may be taken by the business firm for not more than three taxable years, except that if the child care facility is accredited under section 43-2620 or becomes accredited under section 43-2620 during the three-taxable-year period, the credit may be taken for an additional consecutive two taxable years after the end of the third taxable year for which a credit was taken under this section.

(3) Costs incurred by the business firm in providing child care services for children of employees shall be reduced by payments received by the business firm from employees. If the business firm provides child care services for the children of employees and also for the children of non-employees, the direct operating costs of staffing, operating, and maintaining the child care facility, including the related payroll taxes, employee benefits, and sales and use taxes, shall be multiplied by a fraction, the numerator of which is the total child hours of care provided to the children of employees and the denominator of which is the total child hours of care provided in the child care facility. Child hour means one hour of care provided for one child. For purposes of calculating child hours, if the business firm does not in the ordinary course of its business compile the actual child hours of care, it may determine the number of child hours based on a reasonable convention if such convention is used consistently for each year that the credit is claimed or the business firm obtains the advance consent of the Tax Commissioner to change the convention. Costs shall be considered incurred in the taxable year in which they are either accruable or are paid in accordance with the business firm's overall income tax method of accounting.

(4) A business firm operating a child care facility on January 1, 2007, shall only qualify for the two years of tax credits allowed under subsection (2) of this section relating to expenditures by the business firm for direct operating costs if the child care facility is accredited after January 1, 2007.

(5) A business firm shall not be considered to be providing child care services for purposes of this section unless the child care services are provided to the employees of the firm who qualify under classifications established by the business firm which are found by the Tax Commissioner not to be discriminatory in favor of highly compensated employees. For purposes of this section, highly compensated employee means an employee who was a five-percent owner of the business firm at any time during the year or the preceding year or, for the preceding year, either (a) had compensation from the employer in excess of eighty thousand dollars or (b) was among the highest twenty percent of employees ranked by compensation, whichever results in the

smaller group. Whether an employer's classifications are nondiscriminatory shall be determined on the basis of employees' eligibility to place children in the child care facility.

(6) No amount paid or incurred by an employer to provide child care assistance to an employee shall qualify for the credit if the amount was paid or incurred pursuant to a salary reduction plan or is not paid for services performed within this state.

(7) This section shall only apply to business firms that meet the requirements of this section on or before December 31, 2011.

(8) If two or more business firms share in the cost of providing child care services for children of such business firms' employees, each business firm shall be allowed a tax credit in proportion to such business firm's share of the total costs.

(9) The Department of Revenue and the Department of Insurance shall issue a joint report by December 1, 2008, and by each December 1 thereafter for so long as the credit is effective, that provides the following information:

(a) The number of business firms qualifying for the credit under this section during taxable years ending on or before the previous December 31;

(b) The number and location by county of child care facilities qualifying for the credit under this section during the taxable years ending on or before the previous December 31;

(c) The total child-years of child care provided, the range of child-years of child care provided per qualifying business, and the average and median child-years of care provided per qualifying business, sorted in reasonable groupings by maximum enrollment during the year that include a sufficient number of qualifying businesses in each group to maintain the confidentiality of the taxpayers qualifying for the credit;

(d) The percentage of costs paid by the employees in each size grouping in subdivision (c) of this subsection;

(e) The percentage of such child-years of care provided in accredited facilities in each size grouping in subdivision (c) of this subsection; and

(f) The total credits claimed and the total credits allowed in each size grouping in subdivision (c) of this subsection.

(10) The Department of Revenue shall develop a form for claiming the credit allowed by this section stating that any business firm seeking a credit under this section must supply the information listed in subsection (9) of this section as a condition for receiving the credit.

(11) The Tax Commissioner and Director of Insurance may adopt and promulgate rules and regulations as necessary to carry out this section.

Sec. 707. Section 79-217, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-217 Except as provided in sections 79-221 and 79-222, the school board or board of education of each school district and the governing authority of each private, denominational, or parochial school in this state shall require each student to be protected against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, and tetanus by immunization prior to enrollment. Any student who does not comply with this section shall not be permitted to continue in school until he or she so complies, except as provided by section 79-222. Each school district shall make diligent efforts to inform families prior to the date of school registration of the immunization requirements of this section.

Except as provided in the Childhood Vaccine Act, the cost of such immunization shall be borne by the parent or guardian of each student who is immunized or by the Department of Health and Human Services ~~Regulation and Licensure~~ for those students whose parent or guardian is financially unable to meet such cost.

Sec. 708. Section 79-218, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-218 Any school board or board of education of a school district or the governing authority of a private, denominational, or parochial school in this state may request assistance from the Department of Health and Human Services ~~Regulation and Licensure~~ in establishing immunization clinics. Such assistance shall consist of vaccines, serums, and other supplies, services, and guidance from the ~~Director~~ Department of Health and Human Services.

Sec. 709. Section 79-219, Revised Statutes Cumulative Supplement, 2006, 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. 710. Section 79-248, Reissue Revised Statutes of Nebraska, is amended to read:

79-248 Every school district shall cause every child under its jurisdiction to be separately and carefully inspected, except as otherwise provided in this section, to ascertain if such child is suffering from (1) defective sight or hearing, (2) dental defects, or (3) other conditions as prescribed by the Department of Health and Human Services, ~~Regulation and Licensure~~. If such inspection determines that any child has such condition, the school shall notify the parent of the child in writing of such condition and explain to such parent the necessity of professional attendance for such child. Whenever a child apparently shows symptoms of any contagious or infectious disease, such child shall be sent home immediately or as soon as safe and proper conveyance can be found and the proper school authority, school board, or board of education shall be at once notified. Such student may be excluded from school as provided in section 79-264. No child shall be compelled to submit to a physical examination other than the inspection by the school over the written objection of his or her parent or guardian delivered to the school authorities. Such objection does not exempt the child from the quarantine laws of the state and does not prohibit an examination for infectious or contagious diseases.

Sec. 711. Section 79-249, Reissue Revised Statutes of Nebraska, is amended to read:

79-249 The Department of Health and Human Services ~~Regulation and Licensure~~ shall adopt and promulgate rules and regulations for conducting school health inspections, the qualifications of the person or persons authorized to make such inspections, and the health conditions to be observed and remedied and shall furnish to school authorities regulations and other useful materials for carrying out the purposes of sections 79-248 to 79-253.

On and after July 1, 1999, no staff member of any school shall administer medication unless the school complies with the applicable requirements of the Medication Aide Act. Notwithstanding any other provision, nothing in the act shall be construed to require any school to employ or use a school nurse or medication aide in order to be in compliance with the act.

Sec. 712. Section 79-843, Reissue Revised Statutes of Nebraska, is amended to read:

79-843 The contracts of the teaching staff and school nurses employed by an educational program administered by the State Department of Education, the Department of Health and Human Services, or a political subdivision of the state, except a school district or an educational service unit, the colleges governed by the Board of Trustees of the Nebraska State Colleges, and any university governed by the Board of Regents of the University of Nebraska shall require the sanction of a majority of the members of the governing board. Except as provided in section 79-845, each such contract shall be deemed renewed and in force and effect until a majority of the governing board votes or the ~~Director~~ Department of Health and Human Services determines, sixty days before the close of the contract period, to amend or terminate the contract for just cause. The department or the secretary of the governing board shall notify each teacher or school nurse in writing at least ninety days before the close of the contract period of any conditions of unsatisfactory performance or a reduction in teaching staff or nursing staff that the department or board considers may be just cause to either amend or terminate the contract for the ensuing year. Any teacher or school nurse so notified shall have the right to file, within five days after receipt of such notice, a written request with the department or board for a hearing before the department or board. Upon receipt of such request, the department or board shall order the hearing to be held within ten days after such receipt and shall give written notice of the time and place of the hearing to the teacher or school nurse. At the hearing, evidence shall be presented in support of the reasons given for considering amendment or termination of the contract and the teacher or school nurse shall be permitted to produce evidence related thereto. The department or board shall render the decision to amend or terminate a contract based on the evidence produced at the hearing.

Sec. 713. Section 79-1104.04, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1104.04 (1) The board of trustees shall include the following six members:

- (a) The Commissioner of Education or his or her designee;
- (b) The ~~Director~~ chief executive officer of the Department of Health and Human Services or his or her designee; and
- (c) The following persons appointed by the Governor, in his or her discretion:
  - (i) Two persons nominated by the endowment provider;
  - (ii) An early childhood professional representing an urban at-risk area appointed pursuant to subsection (5) of this section; and
  - (iii) An early childhood professional representing a rural at-risk county appointed pursuant to subsection (6) of this section.

(2) The terms of office for members initially appointed under subsection (1) of this section shall be three years. Upon completion of the initial terms of such members, the Governor shall appoint the two members under subdivision (1)(c)(i) of this section for terms of one and two years, the member under subdivision (1)(c)(ii) of this section for a term of three years, and the member under subdivision (1)(c)(iii) of this section for a term of two years. Succeeding appointees shall be appointed for terms of three years. An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed and qualified.

(3) The board of trustees shall by majority vote annually elect a chairperson from among the members of the board of trustees.

(4) The members of the board of trustees shall be reimbursed for their actual and necessary expenses incurred while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

(5) The Governor shall identify an at-risk urban area consisting of not less than ten contiguous census tracts, as determined by the United States Bureau of the Census for the 2000 United States Census, within a city of the metropolitan class, which each contain a percentage of families below the poverty line of greater than twenty percent, as reported by the United States Bureau of the Census for the 2000 United States Census. The Governor shall request that a committee, consisting of (a) the member of the Legislature representing the district containing the preponderance of geographic area of such at-risk area, (b) the member of the board of county commissioners representing the district containing the preponderance of geographic area of such at-risk area, and (c) the member of the city council representing the district containing the preponderance of geographic area of such at-risk area, develop a list of not less than two and not more than four nominees for appointment to the board of trustees. Upon receipt of a list of nominees signed by at least two members of the committee, the Governor shall, in his or her discretion, appoint a member to the board of trustees from such list of nominees.

(6) The Governor shall, in his or her discretion, appoint one member to the board of trustees who resides in a county which does not contain a city of the metropolitan class or a city of the primary class and which contains a percentage of families below the poverty line of greater than eight and one-half percent, as reported by the United States Bureau of the Census for the 2000 United States Census.

Sec. 714. Section 79-1902, Revised Statutes Cumulative Supplement, 2006, is amended to read:

79-1902 (1) The State Department of Education, in cooperation with the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure,~~ and ~~the Department of Health and Human Services Finance and Support~~ shall develop a packet entitled "Learning Begins at Birth" to be given to the parents of each child born in this state on and after January 1, 2003.

(2) The packet shall contain information about child development, child care, how children learn, children's health including, on and after July 14, 2006, information on the prevention of sudden infant death syndrome and shaken baby syndrome, services available to children and parents, and any other information deemed relevant by the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure,~~ ~~the Department of Health and Human Services Finance and Support,~~ or the State Department of Education. The State Department of Education shall indicate which information in the packet is appropriate for the parents of infants, for the parents of toddlers, and for the parents of preschoolers.

(3) The State Department of Education shall develop a variety of types of the packet, based on the needs of parents. The information in the packets may be in the form of printed material or in the form of video tapes, audio cassettes, or other appropriate media.

Sec. 715. Section 79-1903, Reissue Revised Statutes of Nebraska, is amended to read:

79-1903 (1) ~~The Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ shall assist the State Department of Education in developing the packet and shall develop methods of distributing the packet to parents upon the birth of a child in this state beginning on January 1, 2003.

(2) The departments shall solicit private financial assistance to carry out their duties under the Nebraska Read, Educate, and Develop Youth Act. The departments shall not endorse any private company or product, but private companies may have their names placed on materials in the packet to help underwrite the costs of developing and distributing the packets.

Sec. 716. Section 79-1904, Reissue Revised Statutes of Nebraska, is amended to read:

79-1904 The READY Cash Fund is created. The fund shall contain money received from private sources to underwrite the costs of the Nebraska Read, Educate, and Develop Youth Act. The fund shall be used by the State Department of Education, and the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ to aid in carrying out their duties under the act. The fund shall be administered by the Department of Health and Human Services, Finance and Support. Any money in the fund available for investment may be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 717. Section 79-1905, Reissue Revised Statutes of Nebraska, is amended to read:

79-1905 The State Department of Education, and the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support~~ shall annually report to the Legislature and the Governor regarding the actions, activities, accomplishments, and shortcomings in carrying out the Nebraska Read, Educate, and Develop Youth Act.

Sec. 718. Section 80-314, Reissue Revised Statutes of Nebraska, is amended to read:

80-314 ~~The Division of Veterans Homes is created within the Department of Health and Human Services. The Director of Health and Human Services shall appoint a director of the division who is responsible to the Director of Health and Human Services. The department Division of Veterans' Homes shall be responsible for the management and administration of the homes and the treatment of the members thereof, define the duties of the officers, fix their compensation, and adopt and promulgate rules and regulations. The ~~division director~~ Director of Veterans' Homes and the Director of Veterans' Affairs are jointly responsible ~~for~~ shall jointly develop member grievance procedures, family support programs, volunteer support, policy, and internal standards. The Director of Veterans' Affairs shall have access to all confidential information relating to members' care.~~

Sec. 719. Section 80-316, Revised Statutes Cumulative Supplement, 2006, is amended to read:

80-316 (1) The purpose of the Division of ~~Veterans~~ Veterans' Homes of the Department of Health and Human Services is to provide domiciliary and nursing home care and subsistence to:

(a) All persons who served in the armed forces of the United States during a period of war as defined in section 80-401.01 and who were discharged or otherwise separated with a characterization of honorable or general (under honorable conditions) if, at the time of making an application for admission to one of the Nebraska veterans homes:

(i) The applicant has been a bona fide resident of the State of Nebraska for at least two years;

(ii) The applicant has become disabled due to service, old age, or otherwise to an extent that it would prevent such applicant from earning a livelihood; and

(iii) The applicant's income from all sources is such that the applicant would be dependent wholly or partially upon public charities for support or the type of care needed is available only at a state institution;

(b) The spouse of any such person admitted to one of the homes who has attained the age of fifty years and has been married to such member for at least two years before his or her entrance into the home;

(c) Subject to subsection (2) of this section, the surviving spouses and parents of eligible servicemen and servicewomen as defined in subdivision (a) of this subsection who died while in the service of the United States or



who have since died of a service-connected disability as determined by the United States Department of Veterans Affairs; and

(d) Subject to subsection (2) of this section, the surviving spouses of eligible servicemen or servicewomen as defined in subdivision (a) of this subsection who have since died.

(2) The surviving spouses and parents referred to in subdivision (1)(c) or (d) of this section shall be eligible for such care and subsistence if, at the time of applying, they:

(a) Have been bona fide residents of the State of Nebraska for at least two years;

(b) Have attained the age of fifty years;

(c) Are unable to earn a livelihood; and

(d) Are dependent wholly or partially upon public charities or the type of care needed is available only at a state institution.

(3) No one admitted to one of the Nebraska veterans homes under conditions enumerated in this section shall have a vested right to continued residence in such home if such person ceases to meet any of the eligibility requirements of this section, except that no person who has been regularly admitted shall be denied continued residence solely because of his or her marriage to a member of one of the homes.

Sec. 720. Section 80-317, Reissue Revised Statutes of Nebraska, is amended to read:

80-317 ~~The Board of Inquiry and Review~~ Veterans' Homes Board shall prescribe rules of membership in the Nebraska veterans homes in accordance with sections 80-314 to 80-331. An application for membership in a Nebraska veterans home shall be made to a county veterans service officer who shall coordinate the required financial and medical information and, if necessary, provide an opinion regarding its validity. If it is found that the applicant is unable by reason of disability or old age to earn a livelihood for himself or herself and is dependent wholly or partially upon public charities for maintenance, ~~or the type of care needed is available only at a state institution,~~ the The county veterans service officer shall at once forward the application together with his or her finding in regard to the condition of the applicant to the ~~Board of Inquiry and Review,~~ board, whose duty it is to receive, review, and act upon applications for membership. During the interim between meetings of the board, the secretary of the board is authorized to adjudicate applications, subject to the approval of the full board at its next meeting.

Sec. 721. Section 80-318, Revised Statutes Cumulative Supplement, 2006, is amended to read:

80-318 For the purpose of determining continued eligibility of members to remain in one of the Nebraska veterans homes and for the purpose of recommending matters of policy, rules and regulations, administration, and maintenance pertaining to each of the Nebraska veterans homes, the ~~Board of Inquiry and Review~~ Veterans' Homes Board is established. The board shall be composed of ~~the department commander and immediate past commander of two members selected by~~ each of the recognized veterans organizations in Nebraska identified in subdivision (1) of section 80-401.01, and the Director of Veterans' Affairs who shall serve as the permanent board secretary. Such members shall be selected in the manner and serve for such term as the veterans organization may prescribe. If a commander or immediate past commander of member selected by any such veterans organizations organization is unavailable to attend a meeting of the board or unable to serve for any reason, the incumbent department commander of such organization may appoint some other member of his or her organization to serve on the board. ~~in the absence of the department commander or the immediate past department commander, or both. Any of the veterans organizations mentioned in this section may appoint two representatives of their organization to serve on the board in place of the department commander and immediate past department commander. Such representatives shall be selected in the manner and serve for such term as the veterans organization may prescribe. The chairperson shall be selected from among the members of the board. No salary shall be paid to any member of the board, but actual expenses of the members of the board when attending regularly called meetings of that board shall be paid as provided in sections 81-1174 to 81-1177 from the administrative funds of the Department of Veterans' Affairs.~~

Sec. 722. Section 80-319, Reissue Revised Statutes of Nebraska, is amended to read:

80-319 The Board of Inquiry and Review Veterans' Homes Board shall meet at least quarterly and at other times at the request of either the chairperson or the secretary of the board at a site selected by the secretary after consultation with the chairperson. The board shall review all

applications submitted for admission to the Nebraska veterans homes system and shall make all final determinations regarding admission, or continued admission, to one of the homes. The board may check periodically on members of the Nebraska veterans homes to determine whether or not their physical or financial status has so changed since admission that they should no longer be maintained there. For purposes of making such determination, the ~~The board~~ has power to subpoena witnesses and take testimony under oath relative to the duties of the board. the corpus of estate, financial status, and income of any member. No specified amount, either as to income or accumulated reserve, shall be arbitrarily fixed for determining the eligibility of an applicant to membership or to continuing rights of membership, but each case shall be considered solely on its merits and the evidence presented. ~~The board shall meet at least quarterly and at other times at the request of either the chairperson or secretary of the board at a site selected by the secretary after consultation with the chairperson. Recommendations of the board shall constitute authority for the~~ The Department Division of Veterans' Homes shall consult with the board prior to denying Health and Human Services to deny further residence to members if the board finds should no longer be supported there.

Sec. 723. Section 80-320, Reissue Revised Statutes of Nebraska, is amended to read:

80-320 Nothing in sections 80-314 to 80-331 shall be construed as limiting the authority vested with the Director of ~~Health and Human Services~~ Veterans' Homes to adopt and promulgate rules and regulations, not inconsistent herewith, for the administration of the Nebraska veterans homes. ~~The director, Department of Health and Human Services, in conjunction and after consultation with the Board of Inquiry and Review, Veterans' Homes Board,~~ shall adopt and promulgate rules and regulations governing admission to and administration of the homes. authorizing all members of a home to perform such duties in the home and on the institutional grounds as the member is physically able to perform. No member shall be excused from the performance of such duty without a disability statement signed by the physician of the home.

Sec. 724. Section 80-321, Reissue Revised Statutes of Nebraska, is amended to read:

80-321 Nothing in sections 80-314 to 80-331 shall be construed to deny any person who has been properly admitted to one of the Nebraska veterans homes the privilege of paying the cost of his or her care, or any part thereof, if he or she so desires or if it has been determined by the ~~Board of Inquiry and Review~~ Veterans' Homes Board that his or her financial status is such that he or she should no longer be maintained there at public expense.

Sec. 725. Section 80-322, Reissue Revised Statutes of Nebraska, is amended to read:

80-322 Any veteran, spouse, surviving spouse, or parent admitted to one of the Nebraska veterans homes under section 80-316 who has an income in excess of forty dollars per month, including federal pension, compensation, or social security, or has sufficient assets will be required to reimburse the state monthly a reasonable amount for the expense of his or her maintenance. The amount shall be determined by the ~~Board of Inquiry and Review. Veterans' Homes Board.~~ All money paid to the state by members of the Nebraska veterans homes in compliance with this section shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services~~ Health and Human Services Cash Fund.

Sec. 726. Section 81-101, Reissue Revised Statutes of Nebraska, is amended to read:

81-101 The civil administration of the laws of the state is vested in the Governor. For the purpose of aiding the Governor in the execution and administration of the laws, the executive and administrative work shall be divided into the following ~~departments+ agencies:~~ (1) Department of Agriculture; (2) Department of Labor; (3) Department of Roads; (4) Department of Natural Resources; (5) Department of Banking and Finance; (6) Department of Insurance; (7) Department of Motor Vehicles; (8) Department of Administrative Services; (9) Department of Economic Development; (10) Department of Correctional Services; (11) Nebraska State Patrol; (12) ~~Department of Health and Human Services;~~ ~~(13) Department of Health and Human Services Regulation and Licensure;~~ ~~(14) Department of Health and Human Services Finance and Support;~~ and ~~(15) Department of Property Assessment and Taxation;~~ and (13) Department of Health and Human Services.

Sec. 727. Section 81-102, Reissue Revised Statutes of Nebraska, is amended to read:

81-102 The Governor shall appoint heads for the various ~~departments, agencies listed in section 81-101,~~ subject to confirmation by a majority vote of the members elected to the Legislature. Such appointments shall be

submitted to the Legislature within sixty calendar days following the first Thursday after the first Tuesday in each odd-numbered year. The officers shall be designated as follows: (1) The Director of Agriculture for the Department of Agriculture; (2) the Commissioner of Labor for the Department of Labor; (3) the Director-State Engineer for the Department of Roads; (4) the Director of Natural Resources for the Department of Natural Resources; (5) the Director of Banking and Finance for the Department of Banking and Finance; (6) the Director of Insurance for the Department of Insurance; (7) the Director of Motor Vehicles for the Department of Motor Vehicles; (8) the Director of Administrative Services for the Department of Administrative Services; (9) the Director of Correctional Services for the Department of Correctional Services; (10) the Director of Economic Development for the Department of Economic Development; (11) the Superintendent of Law Enforcement and Public Safety for the Nebraska State Patrol; (12) ~~the Director of Health and Human Services for the Department of Health and Human Services;~~ ~~(13) the Director of Regulation and Licensure for the Department of Health and Human Services Regulation and Licensure;~~ ~~(14) the Director of Finance and Support for the Department of Health and Human Services Finance and Support;~~ and ~~(15) the Property Tax Administrator for the Department of Property Assessment and Taxation;~~ and (13) the chief executive officer for the Department of Health and Human Services. Whoever shall be so nominated by the Governor and shall fail to receive the number of votes requisite for confirmation, shall not be subject to nomination or appointment for this or any other appointive state office requiring confirmation by the Legislature during the period for which his or her appointment was sought. In case of a vacancy in any of such offices during the recess of the Legislature, the Governor shall make a temporary appointment until the next meeting of the Legislature, when he or she shall nominate some person to fill such office. Any person so nominated who is confirmed by the Legislature, shall hold his or her office during the remainder of the term if a specific term has been provided by law, otherwise during the pleasure of the Governor subject to the provisions of this section; except any such officers may be removed by the Governor pursuant to Article IV of the Constitution of Nebraska.

Sec. 728. Section 81-502, Reissue Revised Statutes of Nebraska, is amended to read:

81-502 (1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire;

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed foster care facilities or applicants for licenses for foster care facilities, upon request by the Department of Health and Human Services, pursuant to section 71-1903;

(iii) Licensed providers of programs or applicants for licenses to provide such programs, upon request of the Department of Health and Human Services, ~~Regulation and Licensure,~~ pursuant to section 71-1913. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other health care facilities which are licensed under the Health Care Facility Licensure Act or applicants for licenses for such facilities or institutions, upon request by the Department of Health and Human Services, ~~Regulation and Licensure,~~ pursuant to section 71-441; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Health and Human Services, ~~Regulation and Licensure,~~ pursuant to section 71-4635; and

(d) After a careful study and investigation of relevant data, to adopt, promulgate, alter, and enforce, through inspections and code compliance, orders, rules, and regulations covering:

(i) The prevention of fires;

(ii) The storage, sale, and use of flammable liquids, combustibles, and fireworks;

(iii) Electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such

structures are defined in the National Fire Protection Association, Pamphlet Number 101, and associated pamphlets, and all other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned;

(iv) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;

(v) Chemicals, prozylin plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist;

(vi) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and

(vii) Accessibility standards and specifications adopted pursuant to section 81-5,147.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

(6) Plans for compliance with the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee set out in subdivision (4)(a) of section 81-505.01.

Sec. 729. Section 81-502.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-502.01 For the purposes of assisting the State Fire Marshal in matters pertaining to the performance of his or her duties, there is hereby established the Nebraska Fire Safety Appeals Board. Such board shall consist of the following members: (1) A representative of the fire insurance industry with experience in fire prevention inspections, (2) an architect licensed in this state, (3) a member of a board of education of a public school district, (4) a fire protection engineer, (5) a member of the inspection division of a paid fire department in this state, (6) an active member of a volunteer fire department in this state, (7) a ~~representative~~ two representatives of the Department of Health and Human Services, and (8) a representative of the Nebraska Association of Hospitals and Health Systems, ~~and (9) a representative of the Department of Health and Human Services Regulation and Licensure.~~ The members shall be appointed by the Governor and shall serve for a term of four years.

Sec. 730. Section 81-601, Reissue Revised Statutes of Nebraska, is amended to read:

81-601 The Department of Health and Human Services ~~Regulation and Licensure~~ shall have general supervision and control over matters relating to public health and sanitation and shall provide for examination as provided in section 81-602 and have supervision over all matters of quarantine and quarantine regulations.

Sec. 731. Section 81-602, Reissue Revised Statutes of Nebraska, is amended to read:

81-602 The Department of Health and Human Services ~~Regulation and~~

~~Licensure~~ shall have the right at all times to inspect the equipment and methods of teaching in all medical colleges and medical schools of the state and shall have the power to refuse examination to the graduates of any school which, on proper notice and hearing, shall be adjudged not a medical college or medical school in good standing as defined by the laws of this state.

Sec. 732. Section 81-604.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-604.01 Any local or state agency or department, or any private facility involved in arranging or supervising placements for those persons requiring care or supervision, shall notify the Department of Health and Human Services ~~Regulation and Licensure~~ when there is reason to believe that the total number of persons served in any institution, facility, place, or building exceeds three individuals and that such facility is not currently licensed by the Department of Health and Human Services, ~~Regulation and Licensure~~. The department shall investigate or inspect such complaints pursuant to the Health Care Facility Licensure Act.

Sec. 733. Section 81-604.02, Reissue Revised Statutes of Nebraska, is amended to read:

81-604.02 For the purpose of assisting the citizens of the state in receiving benefits under the federal medicare law, the State of Nebraska authorizes the Division of Public Health of the Department of Health and Human Services ~~Regulation and Licensure~~ to act as the survey and certification agency for the medicare program in Nebraska and to contract to perform such functions with the federal agency responsible for administration of the medicare program and to enter into such other agreements as may be necessary to implement federal requirements. The ~~department~~ division may also contract with the federal agency to perform survey and certification functions in accordance with the federal Clinical Laboratory Improvement Amendments of 1988.

Sec. 734. Section 81-604.03, Reissue Revised Statutes of Nebraska, is amended to read:

81-604.03 The Division of Public Health of the Department of Health and Human Services ~~Regulation and Licensure~~ is hereby authorized to act as the survey and certification agency for the medicaid program and to enter into such agreements ~~with the Department of Health and Human Services Finance and Support~~ as may be necessary to carry out its duties. ~~Until January 1, 1997, the Department of Health shall notify the Department of Social Services of any violation by a nursing facility, as defined in section 71-2097, of federal regulations for participation in the medicaid program. On and after January 1, 1997, the Department of Health and Human Services Regulation and Licensure shall notify the Department of Health and Human Services Finance and Support~~ July 1, 2007, the division shall notify the medicaid program of any violation by a nursing facility, as defined in section 71-2097, of federal regulations for participation in the medicaid program. Civil penalties will be determined pursuant to sections 71-2097 to 71-20,101.

Sec. 735. Section 81-637, Reissue Revised Statutes of Nebraska, is amended to read:

81-637 As used in sections 81-637 to 81-640, unless the context otherwise requires:

(1) Cancer ~~shall mean~~ means all malignant neoplasm regardless of the tissue of origin, including malignant lymphoma and leukemia;

(2) Department means the Department of Health and Human Services;

~~and~~

~~(2)~~ (3) Smoking disease shall mean means diseases whose causes are linked to smoking including, but not limited to, cardiovascular, pulmonary, and gastrointestinal diseases. ~~and~~

~~(3) Director shall mean the Director of Finance and Support.~~

Sec. 736. Section 81-638, Reissue Revised Statutes of Nebraska, is amended to read:

81-638 (1) The Legislature shall appropriate for each year from the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund to the ~~Department of Health and Human Services Finance and Support~~ department an amount derived from one cent of the cigarette tax imposed by section 77-2602, less any amount appropriated from the fund specifically to the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. The ~~director~~ department shall, after deducting expenses incurred in the administration of such funds, distribute such funds exclusively for grants and contracts for research of cancer and smoking diseases, for funding the cancer registry prescribed in sections 81-642 to 81-650, and for associated expenses due to the establishment and maintenance of such cancer registry. Not more than two hundred thousand dollars shall be appropriated for funding the cancer registry and associated expenses.

The University of Nebraska may receive such grants and contracts, and other postsecondary institutions having colleges of medicine located in the State of Nebraska may receive such contracts.

(2) The Legislature shall appropriate for each year from the ~~Department of Health and Human Services Finance and Support~~ Health and Human Services Cash Fund to the ~~Department of Health and Human Services Finance and Support~~ department for cancer research an amount derived from two cents of the cigarette tax imposed by section 77-2602 to be used exclusively for grants and contracts for research on cancer and smoking diseases. No amount shall be appropriated or used pursuant to this subsection for the operation and associated expenses of the cancer registry. Not more than one-half of the funds appropriated pursuant to this subsection shall be distributed to the University of Nebraska Medical Center for research in cancer and allied diseases and the University of Nebraska Eppley Institute for Research in Cancer and Allied Diseases. The remaining funds available pursuant to this subsection shall be distributed for contracts with other postsecondary educational institutions having colleges of medicine located in Nebraska which have cancer research programs for the purpose of conducting research in cancer and allied diseases.

(3) Any contract between the ~~Department of Health and Human Services Finance and Support~~ department and another postsecondary educational institution for cancer research under subsection (2) of this section shall provide that:

(a) Any money appropriated for such contract shall only be used for cancer research and shall not be used to support any other program in the institution;

(b) Full and detailed reporting of the expenditure of all funds under the contract is required. The report shall include, but not be limited to, separate accounting for personal services, equipment purchases or leases, and supplies. Such reports shall be made available to the Legislature; and

(c) No money appropriated for such contract shall be spent for travel, building construction, or any other purpose not directly related to the research that is the subject of the contract.

Sec. 737. Section 81-639, Reissue Revised Statutes of Nebraska, is amended to read:

81-639 The ~~director~~ department when making grants and contracts pursuant to sections 81-637 to 81-640 shall consider:

(1) The relevancy of the applicant's proposal to the furthering of research of cancer and smoking diseases;

(2) The feasibility of the applicant's proposal;

(3) The availability of other sources of funding for the applicant's proposal;

(4) The facilities, personnel, and expertise available to the applicant for use in the proposal; and

(5) Evidence of the quality of the applicant's prior or existing programs for research of cancer and smoking diseases or the applicant's potential for developing new programs for such research.

Sec. 738. Section 81-640, Reissue Revised Statutes of Nebraska, is amended to read:

81-640 The ~~director~~ department shall adopt and promulgate rules and regulations pursuant to the Administrative Procedure Act to:

(1) Establish an application process for grants and contracts;

(2) Establish criteria for programs in order to receive funding;

(3) Establish criteria as to the rates and amount of funding; and

(4) Establish other procedures as ~~he or she may deem~~ necessary for the proper administration of sections 81-637 to 81-640.

Sec. 739. Section 81-642, Reissue Revised Statutes of Nebraska, is amended to read:

81-642 It is the intent of the Legislature to require the establishment and maintenance of a cancer registry for the State of Nebraska. This responsibility is delegated to the Department of Health and Human Services ~~Regulation and Licensure~~ along with the authority to exercise the necessary powers to implement sections 81-642 to 81-650. To insure an accurate and continuing source of data concerning cancer, all hospitals within the state shall make available to the ~~Department of Health and Human Services Regulation and Licensure~~ department upon its request, at least once a year, information contained in the medical records of patients who have cancer within such time following its diagnosis as the department shall require. Any medical doctor, osteopathic physician, or dentist within the state shall make such information available to the department upon request by the department. This cancer registry should provide a central data bank of accurate, precise, and current information which medical authorities state will assist in the

research for the prevention, cure, and control of cancer. The information contained in the cancer registry may be used as a source of data for scientific and medical research. Any information released from the cancer registry shall be disclosed as Class I, Class II, Class III, or Class IV data as provided in sections 81-663 to 81-675.

Sec. 740. Section 81-652, Reissue Revised Statutes of Nebraska, is amended to read:

81-652 The Department of Health and Human Services may (1) charge and receive fees, (2) accept third-party reimbursements or matching funds from any federal governmental agency, private corporation, or other public or private organization or entity, and (3) accept grants or donations from any public or private agency, organization, or entity for services provided by any home health agency operated by the department. Such funds shall be paid to the state treasury and credited to the Department of Health and Human Services Health and Human Services Cash Fund.

Sec. 741. Section 81-654, Reissue Revised Statutes of Nebraska, is amended to read:

81-654 For purposes of sections 81-653 to 81-661:

(1) Brain injury registry shall mean the system of reporting established by sections 81-653 to 81-661 in which cases of brain or head injury in this state are reported and recorded in order to achieve the goals of statistical identification and planning for treatment and rehabilitation of persons with brain or head injury and prevention of such injury;

(2) Brain or head injury shall mean clinically evident neurotrauma resulting directly or indirectly from closed or penetrating brain or head trauma, infection, febrile condition, anoxia, vascular lesions, toxin, or spinal cord injury, not primarily related to congenital or degenerative conditions, chemical dependency, or aging processes, which impairs mental, cognitive, behavioral, or physical functioning; and

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

Sec. 742. Section 81-661, Reissue Revised Statutes of Nebraska, is amended to read:

81-661 The Department of Correctional Services, the Department of Health and Human Services, ~~Regulation and Licensure,~~ ~~the Department of Health and Human Services,~~ the State Department of Education and its divisions of special education and vocational rehabilitation, and all other state agencies which serve persons with brain or head injury shall recognize brain or head injury as a distinct disability and shall identify those persons with brain or head injury among the persons served by the agency. Such agencies shall utilize the brain injury registry for improvement of state services for persons with brain or head injury.

Sec. 743. Section 81-663, Reissue Revised Statutes of Nebraska, is amended to read:

81-663 The Legislature finds that there is a need to establish a framework for consistent release of medical record and health information from the many registries and data bases the ~~Department of Health and Human Services Regulation and Licensure~~ department maintains for the State of Nebraska. The purpose of the release of data is to encourage research which will protect the health and safety of the citizens of Nebraska by assisting in the prevention, cure, and control of specific diseases or injuries.

Sec. 744. Section 81-664, Reissue Revised Statutes of Nebraska, is amended to read:

81-664 For purposes of sections 81-663 to 81-675:

(1) Aggregate data means data contained in the medical record and health information registries maintained by the department which is compiled in a statistical format and which does not include patient-identifying data;

(2) Approved researcher means an individual or entity which is approved by the department pursuant to section 81-666 to obtain access to data contained in the medical record and health information registries maintained by the department to assist in the scientific or medical research for the prevention, cure, or control of a disease or injury process;

(3) Case-specific data means data contained in the medical record and health information registries concerning a specific individual other than patient-identifying data;

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

(5) Medical record and health information registry means the system of reporting certain medical conditions occurring in this state, as prescribed by law, which are reported and recorded in order to achieve the goals of prevention, cure, and control through research and education, and includes the birth defects registry established in section 71-646, the cancer

registry established in sections 81-642 to 81-650, the brain injury registry established in sections 81-653 to 81-661, and the Parkinson's Disease Registry established in the Parkinson's Disease Registry Act;

(6) Patient-identifying data means the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient; and

(7) Research means study specific to the diseases or injuries for which access to data is requested and which is dedicated to the prevention, cure, or control of the diseases or injuries.

Sec. 745. Section 81-676, Reissue Revised Statutes of Nebraska, is amended to read:

81-676 The Department of Health and Human Services ~~Regulation and Licensure~~ shall establish a health care data analysis section to conduct data and research initiatives in order to improve the efficiency and effectiveness of health care in Nebraska.

Sec. 746. Section 81-677, Reissue Revised Statutes of Nebraska, is amended to read:

81-677 The Department of Health and Human Services, ~~Regulation and Licensure~~, through the health care data analysis section, shall:

(1) Conduct research using existing health care data bases and promote applications based on existing research;

(2) Work closely with health plans and health care providers to promote improvements in health care efficiency and effectiveness;

(3) Participate as a partner or sponsor of private-sector initiatives that promote applied research on health care delivery, outcomes, costs, quality, and management; and

(4) Provide technical assistance as needed.

Sec. 747. Section 81-678, Reissue Revised Statutes of Nebraska, is amended to read:

81-678 Data and research initiatives by the health care data analysis section of the Department of Health and Human Services ~~Regulation and Licensure~~ shall:

(1) Promote applied research on health care delivery, outcomes, costs, quality, and management;

(2) Conduct research and promote health care applications based on scientifically sound and statistically valid methods;

(3) Emphasize data that is useful and relevant and is not redundant of existing data;

(4) Be structured to minimize the administrative burden on health plans, health care providers, and the health care delivery system; and

(5) Promote continuous improvement in the efficiency and effectiveness of health care delivery.

Sec. 748. Section 81-679, Reissue Revised Statutes of Nebraska, is amended to read:

81-679 Data and research initiatives by the health care data analysis section of the Department of Health and Human Services ~~Regulation and Licensure~~ related to public-sector health care programs shall:

(1) Assist the state's current health care financing and delivery programs to deliver and purchase health care in a manner that promotes improvements in health care efficiency and effectiveness;

(2) Assist the state in its public health activities, including the analysis of disease prevalence and trends and the development of public health responses;

(3) Assist the state in developing and refining its overall health policy, including policy related to health care costs, quality, and access; and

(4) Provide health care information that allows the evaluation of state health care financing and delivery programs.

Sec. 749. Section 81-680, Reissue Revised Statutes of Nebraska, is amended to read:

81-680 (1) To carry out the duties assigned under sections 81-677 to 81-679, the Department of Health and Human Services ~~Regulation and Licensure~~ may contract with or provide grants to private-sector entities.

(2) The health care data analysis section of the ~~Department of Health and Human Services Regulation and Licensure~~ department shall negotiate with private-sector organizations currently collecting data on specific health conditions of interest to the section in order to obtain required data in a cost-effective manner and minimize administrative costs. The section shall support linkages between existing private-sector data bases and shall consider and implement methods to streamline data collection in order to reduce public-sector and private-sector administrative costs.

(3) The health care data analysis section shall use existing



public-sector data bases, such as those existing for the medical assistance program and medicare, to the greatest extent possible. The section shall support linkages between existing public-sector data bases and consider and implement methods to streamline public-sector data collection in order to reduce public-sector and private-sector administrative costs.

Sec. 750. Section 81-699, Reissue Revised Statutes of Nebraska, is amended to read:

81-699 For purposes of the Parkinson's Disease Registry Act:

(1) Approved researcher means an individual or entity who is approved by the department in accordance with section 81-666 to obtain access to data contained in the Parkinson's Disease Registry to assist in scientific or medical research for the prevention, cure, or control of Parkinson's disease;

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

(3) Parkinson's disease means a chronic, progressive disorder in which there is a lack of the chemical dopamine in the brain as a direct result of the destruction of the dopamine-producing cells in the portion of the brain called the substantia nigra. Clinical features of the disease include tremor at rest, slow movements, rigidity, and unsteady or shuffling gait and may be indicated by improvement after using medications used for Parkinson's disease; and

(4) Related movement disorder means a disorder that resembles Parkinson's disease in some way, such as another kind of tremor.

Sec. 751. Section 81-6,110, Reissue Revised Statutes of Nebraska, is amended to read:

81-6,110 Costs associated with administration of the Parkinson's Disease Registry Act shall be paid from cash funds, contract receipts, gifts, and grants. No general funds shall be used to pay such costs. Funds received by the department for the payment of such costs shall be remitted to the State Treasurer for credit to the ~~Department of Health and Human Services Regulation and Licensure~~ Health and Human Services Cash Fund. Notwithstanding any other provision of the act, the Parkinson's Disease Registry and all duties related to the administration of such registry and such act shall cease as of June 30 of any year in which the department has insufficient funds on hand to perform its duties under the act for the next fiscal year, after providing thirty days' written notice to each approved researcher who has contracted with the department under section 81-6,101 in the current biennium.

Sec. 752. Section 81-6,113, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-6,113 For purposes of the Outpatient Surgical Procedures Data Act:

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

(2) Medicaid means the medical assistance program established pursuant to the Medical Assistance Act;

(3) Medicare means Title XVIII of the federal Social Security Act, as such title existed on January 1, 2003;

(4) Outpatient surgical procedure means a surgical procedure provided to patients who do not require inpatient hospitalization;

(5) Primary payor means the public payor or private payor which is expected to be responsible for the largest percentage of the patient's current bill;

(6) Private payor means any nongovernmental source of funding; and

(7) Public payor means medicaid, medicare, and any other governmental source of funding.

Sec. 753. Section 81-1021, Reissue Revised Statutes of Nebraska, is amended to read:

81-1021 (1) All motor vehicles acquired by the State of Nebraska shall be indelibly and conspicuously lettered, in plain letters of a contrasting color or reflective material:

(a) On each side thereof with the words State of Nebraska and following such words the name of whatever board, department, bureau, division, institution, including the University of Nebraska or state college, office, or other state expending agency of the state to which the motor vehicle belongs; and

(b) On the back thereof with the words State of Nebraska.

(2) This section shall not apply to motor vehicles used or controlled by:

(a) The Nebraska State Patrol, the Public Service Commission, the Game and Parks Commission, deputy state sheriffs employed by the Nebraska Brand Committee and State Fire Marshal for state law enforcement purposes,

inspectors employed by the Nebraska Liquor Control Commission, and persons employed by the Tax Commissioner for state revenue enforcement purposes, the exemption for state law enforcement purposes and state revenue enforcement purposes being confined strictly to the seven agencies specifically named;

(b) The Department of Health and Human Services or the Department of Correctional Services for the purpose of apprehending and returning escaped offenders or parole violators to facilities in the Department of Correctional Services and transporting offenders and personnel of the Department of Correctional Services and patients and personnel of the ~~Department of Public Institutions until January 1, 1997, and on and after January 1, 1997,~~ the Department of Health and Human Services who are engaged in off-campus program activities;

(c) The Military Department;

(d) Vocational rehabilitation counselors and the Department of Health and Human Services for the purposes of communicable disease control, for the prevention and control of those communicable diseases which endanger the public health, or used by the Department of Health and Human Services ~~Regulation and Licensure~~ in the enforcement of drug control laws or for other investigation purposes;

(e) The Department of Agriculture for special investigative purposes;

(f) The Nebraska Motor Vehicle Industry Licensing Board for investigative purposes; and

(g) The Insurance Fraud Prevention Division of the Department of Insurance for investigative purposes.

Sec. 754. Section 81-1139.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-1139.01 Until June 30, 1993, the Department of Administrative Services shall be limited to the same rental rate on the Stone Office Building at the Norfolk Regional Center as existed on January 1, 1992. The Department of Health and Human Services ~~Finance and Support~~ shall be limited to reimbursement from the counties maintaining office space in the Stone Office Building pursuant to section 68-130 in the same amount such counties paid for rental of such space on January 1, 1992.

Sec. 755. Section 81-1281, Reissue Revised Statutes of Nebraska, is amended to read:

81-1281 (1) The Department of Economic Development shall establish a comprehensive housing affordability strategy. The strategy shall identify needs, consider issues, and make recommendations regarding housing affordability, housing availability, housing accessibility, and housing quality in Nebraska. The department shall submit the strategy to the Governor and the Clerk of the Legislature by October 1, 1991.

(2) The department shall establish a housing advisory committee consisting of individuals and representatives of groups involved with housing issues in Nebraska to assist with the establishment of the strategy. The department shall work with the Governor's Policy Research Office, the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure,~~ the Department of Banking and Finance, the Nebraska Investment Finance Authority, and any other public or private agency involved in addressing housing needs in Nebraska.

(3) The strategy shall:

(a) Describe the state's estimated housing needs for the ensuing five-year period and the need for assistance for different types of tenure and for different categories of residents such as very-low-income, low-income, and moderate-income persons, the elderly, single persons, large families, residents of nonmetropolitan areas, and other categories determined to be appropriate by the committee;

(b) Describe the nature and extent of homelessness in the state, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness and a description of the strategy for (i) helping low-income families avoid homelessness, (ii) addressing the emergency shelter and transitional housing needs of the homeless, including an inventory of facilities and services that meet such needs in Nebraska, and (iii) helping homeless persons make the transition to permanent housing;

(c) Describe significant characteristics of the housing market;

(d) Explain whether the cost of housing or the incentives to develop, maintain, or improve affordable housing in Nebraska are affected by public policies, including tax policies affecting land and other property, land-use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment;

(e) Explain the institutional structure, including private industry,

nonprofit organizations, and public institutions through which the state will carry out the strategy, assessing the strengths and gaps and describing what will be done to overcome any gaps;

(f) Describe the means of coordination and cooperation among the units of state and local government in the development and implementation of the strategy;

(g) Establish standards and procedures for monitoring housing activities undertaken because of the strategy; and

(h) Include any other information on housing in Nebraska deemed relevant by the Department of Economic Development or the committee.

Sec. 756. Section 81-1316, Revised Statutes Cumulative Supplement, 2006, 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 Coordinating Commission for Postsecondary Education;
- (q) All personnel of the Governor's Policy Research Office, but not to include personnel within the State Energy Office;
- (r) All personnel of the Commission on Public Advocacy;
- (s) All agency heads;
- (t)(i) The Director of Behavioral Health of the Division of Behavioral Health; (ii) the Director of Children and Family Services of the Division of Children and Family Services; (iii) the Director of Developmental Disabilities of the Division of Developmental Disabilities; (iv) the Director of Medicaid and Long-Term Care of the Division of Medicaid and Long-Term Care; (v) the Director of Public Health of the Division of Public Health; and (vi) the Director of Veterans' Homes of the Division of Veterans' Homes;

~~(t) (u) The Director of Medical Services chief medical officer established under section 83-125, the director of the Division of Veterans Homes created in section 80-314, 6 of this act, the Administrator of the Office of Juvenile Services, 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 prior to July 1, 2007, and the Eastern Nebraska Veterans' Home, on and after July 1, 2007, Western Nebraska Veterans' Home, Youth Rehabilitation and Treatment Center-Kearney, and Youth Rehabilitation and Treatment Center-Geneva;~~

~~(u) (v) All personnel employed as pharmacists, physicians, psychiatrists, or psychologists, service area administrators, or facility operating officers of 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; Department of Health and Human Services; and~~

~~(v) (w) Deputies and examiners of the Department of Banking and Finance and the Department of Insurance as set forth in sections 8-105 and 44-119, except for those deputies and examiners who remain in the State Personnel System.~~

(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
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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	<del>17</del> 25

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.

(3) No changes to this section or to the number of noncovered positions within an agency shall affect the status of personnel employed on the date the changes become operative without their prior written agreement. A state employee's career protections or coverage by personnel rules and regulations shall not be revoked by redesignation of the employee's position as a noncovered position without the prior written agreement of such employee.

Sec. 757. Section 81-15,103, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,103 (1) For licensed activities involving disposal of low-level radioactive waste, the council shall adopt and promulgate rules and regulations which require a licensee to provide an adequate surety or other financial arrangement sufficient to accomplish any necessary corrective action or cleanup on real or personal property caused by releases of radiation from a disposal site during the operational life and closure period of the facility and to comply with the requirements for decontamination, decommissioning, site closure, and stabilization of sites, and structures and equipment used in conjunction with such licensed activity, in the event the licensee abandons the facility or defaults for any reason in performing its operational, closure, or other requirements. Such sureties required under the license shall be compatible with applicable federal financial assurance regulations and shall be reviewed by the department at the time of license review under subsection (1) of section 81-15,106. Any arrangement which constitutes self-insurance shall not be allowed. In addition to the surety requirements, the licensee shall purchase property and third-party liability insurance and pay the necessary periodic premiums at all times in such amounts as determined by the council pursuant to rules and regulations adopted and promulgated pursuant to the Low-Level Radioactive Waste Disposal Act.

(2) All sureties required pursuant to subsection (1) of this section which are forfeited shall be paid to the department and remitted to the State Treasurer for credit to the Radiation Site Closure and Reclamation Fund which is hereby created. Any money in the fund may be expended by the department as necessary to complete the requirements on which licensees have defaulted. Money in this fund shall not be used for normal operating expenses of the department. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(3) For licensed activities involving the disposal of low-level radioactive waste, the council shall adopt and promulgate rules and regulations which require a licensee, before termination of the license, to make available such funding arrangements as may be necessary to provide for custodial care.

(4)(a) Remedial cleanup costs which become necessary during the operational life and closure of the facility shall be the responsibility of the licensed facility operator either directly or through applicable surety bonds, insurance, and other financial arrangements required pursuant to subsection (1) of this section, and (b) any remaining remedial cleanup costs

which become necessary during the operational life and closure of the facility and which exceed funds available under subdivision (a) of this subsection shall be assessed proportionately by waste volume against the generators, then proportionately by waste volume against the party states as provided by the Central Interstate Low-Level Radioactive Waste Compact.

(5) Remedial cleanup costs which become necessary during the period of custodial care shall be assessed (a) first, against the funds established pursuant to this section and any surety bonds, insurance, or other financial arrangements established for the facility, excluding such funds reserved for custodial care, (b) second, against the licensed facility operator, (c) third, against the generators based on proportionate waste volume, and (d) fourth, against the party states based on proportionate waste volume as provided by the Central Interstate Low-Level Radioactive Waste Compact.

(6) All funds collected from licensees pursuant to subsection (3) of this section and subsection (1) of section 81-15,101 shall be paid to the department and remitted to the State Treasurer for credit to the Radiation Custodial Care Fund which is hereby created. All interest accrued on money deposited in the fund may be expended by the department for the continuing custodial care, maintenance, and other care of facilities from which such funds are collected as necessary for protection of the public health, safety, and environment. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(7) The department may, by contract, agreement, lease, or license with the Department of Health and Human Services, ~~Regulation and Licensure~~, provide for the decontamination, closure, decommissioning, reclamation, surveillance, or other care of a site subject to this section as needed to carry out the purposes of this section.

Sec. 758. Section 81-15,170, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-15,170 The Nebraska Environmental Trust Board is hereby created as an entity of the executive branch. The board shall consist of the Director of Environmental Quality, ~~the Director of Regulation and Licensure~~, the Director of Natural Resources, the Director of Agriculture, the secretary of the Game and Parks Commission, the chief executive officer of the Department of Health and Human Services or his or her designee, and nine citizens appointed by the Governor with the approval of a majority of the Legislature. The citizen members shall begin serving immediately following notice of nomination and prior to approval by the Legislature. The citizen members shall represent the general public and shall have demonstrated competence, experience, and interest in the environment of the state. Two of the citizen appointees shall also have experience with private financing of public-purpose projects. Three appointees shall be chosen from each of the three congressional districts. The board shall hire an executive director who shall hire and supervise other staff members as may be authorized by the board. The executive director shall serve at the pleasure of the board and be solely responsible to it. The Game and Parks Commission shall provide administrative support, including, but not limited to, payroll and accounting functions, to the board.

Sec. 759. Section 81-15,189, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,189 In order to implement the Petroleum Products and Hazardous Substances Storage and Handling Act and the Petroleum Release Remedial Action Act, the Director of Environmental Quality shall appoint a technical advisory committee to work with the Department of Environmental Quality. The duties of the committee are advisory only. Committee members shall include, but not be limited to:

- (1) The Director of Environmental Quality or his or her designee;
- (2) The State Fire Marshal or his or her designee;
- (3) The executive director of the Nebraska Petroleum Marketers and Convenience Store Association or his or her designee;
- (4) The executive director of the League of Nebraska Municipalities or his or her designee;
- (5) The executive director of the Nebraska Association of County Officials or his or her designee;
- (6) The executive director of the Nebraska Petroleum Council or his or her designee;
- (7) The executive director of the American Consulting Engineers Council of Nebraska or his or her designee;
- (8) The executive director of the Nebraska Chamber of Commerce and Industry or his or her designee;
- (9) The executive director of the Associated Builders and

Contractors or his or her designee;

(10) The executive director of the Nebraska Cooperative Council or his or her designee;

(11) A representative of the Department of Health and Human Services; ~~or a representative of the Department of Health and Human Services Regulation and Licensure;~~ and

(12) A member of the public representing environmental interests.

Committee members shall be reimbursed for actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 760. Section 81-15,210, Reissue Revised Statutes of Nebraska, is amended to read:

81-15,210 (1) The director of the Nebraska Emergency Management Agency shall serve as the State Administrator of the Nebraska Emergency Planning and Community Right to Know Act. The State Emergency Response Commission is created and shall be a part of the Nebraska Emergency Management Agency for administrative purposes. The membership of the commission shall include the Director of Environmental Quality or his or her designee, ~~the Director of Health and Human Services Regulation and Licensure or his or her designee,~~ the Director-State Engineer or his or her designee, the Superintendent of Law Enforcement and Public Safety or his or her designee, the State Fire Marshal or his or her designee, the director of the Nebraska Emergency Management Agency or his or her designee, the chief executive officer of the Department of Health and Human Services or his or her designee, two elected officials or employees of municipal or county government, and one citizen member to represent each of the following interest groups: Firefighters, local emergency management, public or community health, environmental protection, labor, school district, small business, agricultural business, chemical industry, highway transportation, and rail transportation. The Governor shall appoint the municipal or county government officials or employees and the citizen members with the approval of the Legislature. The appointments shall be made to represent the three congressional districts as equally as possible.

(2) The members appointed by the Governor shall be appointed for terms of four years, except that of the first citizen members appointed, three members shall serve for one-year terms, three members shall serve for two-year terms, and two members shall serve for three-year terms, as designated at the time of appointment.

(3) A vacancy on the commission shall exist in the event of the death, disability, or resignation of a member. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed by the Governor for the remainder of such term.

Sec. 761. Section 81-15,245, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-15,245 The Private Onsite Wastewater Treatment System Advisory Committee is created. The advisory committee shall be composed of the following eleven members:

(1) Seven members appointed by the director as follows:

(a) Five private onsite wastewater treatment system professionals; and

(b) Two registered environmental health specialists or officials representing local public health departments which have established programs for regulating private onsite wastewater treatment systems;

(2) The chief executive officer of the Department of Health and Human Services or his or her designee; ~~The Director of Health and Human Services Regulation and Licensure or his or her designated representative;~~

(3) The Director of Environmental Quality or his or her designated representative; and

(4) One representative with experience in soils and geology and one representative with experience in biological engineering, both of whom shall be designated by the vice chancellor of the University of Nebraska Institute of Agriculture and Natural Resources.

Members shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177. The department shall provide administrative support for the advisory committee.

Sec. 762. Section 81-2205, Reissue Revised Statutes of Nebraska, is amended to read:

81-2205 Committee shall mean the Department of Health and Human Services Division of Medicaid and Long-Term Care Advisory Committee on Aging.

Sec. 763. Section 81-2206, Reissue Revised Statutes of Nebraska, is amended to read:

81-2206 Department shall mean the Division of Medicaid and Long-Term

Care of the Department of Health and Human Services.

Sec. 764. Section 81-2213, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-2213 The ~~Department of Health and Human Services~~ department shall have the following powers and duties:

(1) To develop, approve, and submit to the Governor a two-year, three-year, or four-year state plan on aging, as determined by the department, for purposes of administering grant funds allocated to the state under the federal Older Americans Act, as now or hereafter amended, or administering state funds allocated to the Nebraska Community Aging Services Act;

(2) To cooperate with similar departments, commissions, or councils in the federal government and in other states;

(3) To adopt and promulgate rules, regulations, and bylaws governing its procedure and activities and as necessary to carry out the policies of the department and the policies prescribed by the Administration on Aging pursuant to the federal Older Americans Act, as now or hereafter amended;

(4) To create committees to aid in the discharge of its powers and duties;

(5) To cooperate with and assist other state and local governmental agencies and officials on matters relating to services for older individuals;

(6) To divide the state into planning-and-service areas as provided in section 71-807 for behavioral health regions, except that Regions 3 and 5 may each be divided into two planning-and-service areas with boundaries as established by the department for planning-and-service areas in existence in those regions on July 1, 1982;

(7) To establish minimum standards for program operations and to adopt and promulgate rules and regulations for the performance of area agencies on aging and for any services provided by such area agencies on aging which are funded in whole or in part under the Nebraska Community Aging Services Act or the federal Older Americans Act, as now or hereafter amended;

(8) To require the submission of a one-year and a five-year area plan and budget by each area agency on aging or agency seeking designation as an area agency on aging. Such plans and budgets shall be submitted sixty days prior to the start of each fiscal year in accordance with the uniform area plan format and other instructions issued by the department;

(9) To review and approve a one-year and a five-year area plan and budget for the support of each area agency on aging and the provision of eligible activities and services as defined in section 81-2222;

(10) To adopt and submit to the Legislature a community aging services budget;

(11) To review the performance of each area agency on aging and, based on the department-approved area plan and budget, to determine the continued designation or the withdrawal of the designation of an area agency on aging receiving or requesting resources through the state or under the Nebraska Community Aging Services Act or the federal Older Americans Act, as now or hereafter amended. After consultation with the director of the area agency on aging and the governing unit of the area agency on aging, the department may withdraw a designation when it can be shown that federal or state laws, rules, or regulations have not been complied with, state or federal funds are not being expended for the purposes for which they were intended, or older individuals are not receiving appropriate services within available resources. Withdrawal of a designation may be appealed to the ~~director~~. department. Upon withdrawal of a designation, the department may temporarily perform all or part of the functions and responsibilities of the area agency on aging, may designate another agency to perform such functions and responsibilities identified by the department until the designation of a new area agency on aging, and, when deemed necessary, may temporarily deliver services to assure continuity;

(12) To conduct continuing studies and analyses of the problems faced by older individuals within the state and develop such recommendations for administrative or legislative action as appear necessary;

(13) To develop grants and plans, enter into contracts, accept gifts, grants, and federal funds, and do all things necessary and proper to discharge these powers and duties;

(14) To accept and administer any other programs or resources delegated, designated, assigned, or awarded to the department from public or private sources;

(15) To report and make recommendations to the Governor and the Legislature on the activities of the department and the committee and improvements or additional resources needed to promote the general welfare of older individuals in Nebraska. Each member of the Legislature shall receive a copy of the report; and

(16) Such other powers and duties necessary to effectively implement the Nebraska Community Aging Services Act.

Sec. 765. Section 81-2226, Reissue Revised Statutes of Nebraska, is amended to read:

81-2226 In the event of a documented malfeasance on the part of any area agency on aging in the administration of its area plan, and the failure of the governing unit of the area agency to take corrective action within a reasonable time, the ~~director~~ department shall, with the advice of the ~~Department of Health and Human Services Advisory Committee on Aging, committee,~~ terminate funding to the area agency governing unit by disapproving the area plan for that area agency on aging.

Sec. 766. Section 81-2229, Reissue Revised Statutes of Nebraska, is amended to read:

81-2229 It is the intent of the Legislature that:

(1) The state establish a statewide system of care management units through the area agencies on aging to aid in the coordination of the delivery of a continuum of services targeted primarily to the state's older population;

(2) The continuum of services include the proper utilization of all available care resources, including community-based services and institutionalization, to ensure that persons are receiving, when reasonably possible, the level of care that best matches their level of need;

(3) The Department of Health and Human Services ~~Finance and Support~~ apply for and implement a Title XIX medicaid waiver as a way to provide care management services to medicaid clients and to control the rising costs of medicaid; and

(4) The Department of Health and Human Services develop a uniform method for data collection by care management units.

Sec. 767. Section 81-2248, Reissue Revised Statutes of Nebraska, is amended to read:

81-2248 State long-term care ombudsman shall mean the person or persons appointed by the ~~director~~ under section 81-2249 to fulfill the responsibilities of the office.

Sec. 768. Section 81-2249, Reissue Revised Statutes of Nebraska, is amended to read:

81-2249 Pursuant to the Older Americans Act, the office of the state long-term care ombudsman is hereby created. The department shall establish and operate the office. The ~~director~~ chief executive officer of the department shall appoint the state long-term care ombudsman.

Sec. 769. Section 81-2250, Reissue Revised Statutes of Nebraska, is amended to read:

81-2250 The department shall establish a long-term care ombudsman program consisting of the state long-term care ombudsman and any local long-term care ombudsman ~~program.~~ programs. The program, as approved and administered by the department, shall:

(1) Investigate and resolve complaints not reportable under the Adult Protective Services Act made by or on behalf of older individuals who are patients, residents, or clients of long-term care facilities relating to action, inaction, or decisions of providers of long-term care services or their representatives, of public agencies, or of social service agencies which may adversely affect the health, safety, welfare, or rights of such older individuals. The ~~director~~ department shall adopt and promulgate rules and regulations regarding the handling of complaints received under this section, including procedures for conducting investigations of complaints. The rules and regulations shall include procedures to ensure that no state long-term care ombudsman or ombudsman advocate investigates any complaint involving a provider with which the representative was once employed or associated;

(2) Provide for the training of the state long-term care ombudsman and ombudsman advocates and promote the development of citizen organizations to participate in the program, provide training to ombudsman advocates and staff of local long-term care ombudsman programs, issue certificates attesting to the successful completion of the prescribed training, and provide ongoing technical assistance to such local programs;

(3) Analyze and monitor the development and implementation of federal, state, and local laws, regulations, and policies with respect to long-term care facilities and services and recommend any changes in such laws, regulations, and policies deemed by the long-term care ombudsman program to be appropriate;

(4) Establish a statewide, uniform reporting system to collect and analyze data relating to complaints and conditions in long-term care facilities for the purpose of identifying and resolving significant problems. The data shall be submitted to the ~~Department of Health and Human Services Regulation and Licensure~~ department at least on an annual basis;



(5) Prepare reports as requested by the ~~director~~ department and provide policy, regulatory, and legislative recommendations to solve problems, resolve complaints, and improve the quality of care and life in long-term care facilities;

(6) Provide for public forums to discuss concerns and problems relating to action, inaction, or decisions that may adversely affect the health, safety, welfare, or civil rights of residents of long-term care facilities and their representatives, public agencies and entities, and social service agencies; and

(7) Provide information to public agencies, legislators, and others, as deemed necessary by the department, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities.

Sec. 770. Section 81-2251, Reissue Revised Statutes of Nebraska, is amended to read:

81-2251 The ~~director~~ department shall adopt and promulgate rules and regulations to carry out the Long-Term Care Ombudsman Act. The ~~director~~ department shall ensure that the state long-term care ombudsman has no conflicts of interest in fulfilling the duties of the office, is capable of administering the office impartially, has an understanding of long-term care issues, has experience in the fields of aging and health care, and has worked with and been involved in volunteer programs.

Sec. 771. Section 81-2252, Reissue Revised Statutes of Nebraska, is amended to read:

81-2252 The ~~director~~ department may designate for two-year periods, within each planning-and-service area designated pursuant to section 81-2213, local long-term care ombudsman programs in accordance with rules and regulations established by the ~~director~~ department. Such rules and regulations shall include specifications regarding the sites of the offices of the local long-term care ombudsman programs and requirements concerning staffing, levels of training required for ombudsman advocates and staff, standards of operation, and program review.

The office may withdraw or provisionally maintain the designation of an entity as a local long-term care ombudsman program if the entity fails to meet the rules and regulations established by the ~~director~~ department. If the designation of a local long-term care ombudsman program is provisionally maintained, the office shall notify the program of the reasons for the provisional status, of the changes or corrections necessary for the removal of the provisional status, of the length of time permitted to make the changes or corrections, and that the office will withdraw the designation if the program does not comply with the requirements specified in the notice. If the designation of a local long-term care ombudsman program is withdrawn, the office may provide for the continuation of long-term care ombudsman services for that area.

Sec. 772. Section 81-2255, Reissue Revised Statutes of Nebraska, is amended to read:

81-2255 (1) When abuse, neglect, or exploitation of an older individual who is a patient, resident, or client of a long-term care facility is suspected, the long-term care ombudsman program shall make an immediate referral to the ~~Department of Health and Human Services~~ department or the appropriate law enforcement agency. The long-term care ombudsman program shall coordinate with adult protective services or the appropriate law enforcement agency, if requested, pursuant to any investigation of such abuse, neglect, or exploitation.

(2) Any state agency or board which responds to a complaint against a long-term care facility or an individual employed by a long-term care facility that was referred to the agency or board by the office shall forward to the office copies of related inspection reports, plans of correction, and notice of any citations and sanctions levied against the long-term care facility or the individual.

Sec. 773. Section 81-2260, Reissue Revised Statutes of Nebraska, is amended to read:

81-2260 (1) Information relating to any complaints or investigation made pursuant to the Long-Term Care Ombudsman Act that discloses the identities of complainants, patients, residents, or clients shall remain confidential except:

(a) When disclosure is authorized in writing by the complainant, patient, resident, or client or the older individual's guardian or legal representative;

(b) When disclosure is necessary to an investigation of abuse, neglect, or exploitation and the disclosure is made to the Attorney General, the county attorney, or the ~~Department of Health and Human Services Regulation~~

and Licensure, or adult protective services of the Department of Health and Human Services, department;

(c) When disclosure is necessary for the provision of services to the patient, resident, or client and the patient, resident, or client is unable to express written or oral consent; or

(d) Upon court order.

(2) Access to the records and files of the office relating to any complaint or investigation made pursuant to the Long-Term Care Ombudsman Act shall be permitted only at the discretion of the state long-term care ombudsman, except that the identity of any complainant, witness, patient, resident, or client shall not be disclosed by such ombudsman except:

(a) When disclosure is authorized in writing by such complainant, witness, patient, resident, or client or the older individual's guardian or legal representative;

(b) Upon court order; or

(c) Pursuant to subsection (3) of this section.

(3) The records and files of the office shall be released to adult protective services of the Department of Health and Human Services department if it so requests for purposes of the Adult Protective Services Act.

(4) The ~~director~~ department shall have access to the records and files of the office to verify the effectiveness and quality of the long-term care ombudsman program.

Sec. 774. Section 81-2265, Reissue Revised Statutes of Nebraska, is amended to read:

81-2265 It is the intent of the Legislature that the Department of Health and Human Services ~~Finance and Support~~ shall amend its current medicaid waiver to provide any federal funding which may be available for the purpose of a pilot project for preadmission screening and that the Department of Health and Human Services ~~Finance and Support~~ department shall contract with the Department of Health and Human Services to develop and implement such a pilot preadmission screening project.

Sec. 775. Section 81-2267, Reissue Revised Statutes of Nebraska, is amended to read:

81-2267 The Department of Health and Human Services and the Department of Health and Human Services ~~Finance and Support~~ shall evaluate the pilot project for the effectiveness of using medicaid funds, any savings of those funds realized which can be used to serve the ever-growing number of frail and vulnerable older individuals in Nebraska, and the effectiveness of preadmission screening and care management to divert individuals from nursing facility admission who do not need that level of care.

Sec. 776. Section 81-2268, Reissue Revised Statutes of Nebraska, is amended to read:

81-2268 Services identified by care plans for those eligible for medical assistance whose care needs are appropriate for nursing facilities but whose needs can be met outside a nursing facility may be purchased with medicaid waiver funds available through the home and community-based waiver for the aged and disabled administered by the Department of Health and Human Services, and the Department of Health and Human Services ~~Finance and Support~~.

Sec. 777. Section 81-3602, Revised Statutes Cumulative Supplement, 2006, is amended to read:

81-3602 (1) (a) The Rural Development Commission shall consist of members who represent a wide range of rural Nebraska interests.

(b) The Governor shall appoint four members to the commission. The Governor shall appoint a representative of his or her office and one representative from each of the Department of Economic Development, the Department of Agriculture, and the ~~Nebraska~~ Department of Health and Human Services. ~~System~~.

(c) The Speaker of the Legislature shall appoint one member of the Legislature to the commission.

(d) Other members shall be appointed by the Governor to represent federal agencies, local governments, tribal governments, nonprofit organizations, regional economic development organizations, the private sector, postsecondary education, and youth.

(e) The chairperson and vice-chairperson of the commission shall be elected by a majority of the members of the commission at the first commission meeting in odd-numbered years and shall each serve a two-year term as chairperson and vice-chairperson, respectively.

(2) The commission shall meet at the call of the chairperson or a majority of the members. The chairperson shall call such meetings as he or she determines necessary to fulfill the duties of the commission. A quorum shall be one-half of the members.

(3) The members of the commission shall be reimbursed for their

actual and necessary expenses as provided in sections 81-1174 to 81-1177 and pursuant to policies of the commission.

Sec. 778. Section 83-101.08, Reissue Revised Statutes of Nebraska, is amended to read:

83-101.08 The Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure,~~ and the Department of Health and Human Services Finance and Support shall consult and cooperate with the Department of Correctional Services so as to coordinate in an effective manner the activities of the departments with those related activities affecting the welfare of persons which are the responsibility of the Department of Health and Human Services, ~~the Department of Health and Human Services Regulation and Licensure,~~ ~~the Department of Health and Human Services Finance and Support,~~ and the Department of Correctional Services.

Sec. 779. Section 83-107.01, Revised Statutes Cumulative Supplement, 2006, 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) Western Nebraska Veterans' Home, (8) Youth Rehabilitation and Treatment Center-Kearney, and (9) Youth Rehabilitation and Treatment Center-Geneva, ~~— The official name of the state institution under the supervision of the Department of Health and Human Services shall be~~ and (10) the Thomas Fitzgerald Veterans' Home prior to July 1, 2007, and, on and after July 1, 2007, shall be the Eastern Nebraska Veterans' Home.

Sec. 780. Section 83-113, Reissue Revised Statutes of Nebraska, is amended to read:

83-113 The ~~Director~~ Department of Health and Human Services may examine any of the officers, attendants, guards, and other employees and make such inquiries as will determine their fitness for their respective duties and shall investigate and report to the Governor any abuses or wrongs alleged to exist in the institution.

Sec. 781. Section 83-114, Reissue Revised Statutes of Nebraska, is amended to read:

83-114 The ~~Director~~ Department of Health and Human Services shall have the power to summon and examine witnesses under oath, to examine books and papers pertaining to the subject under investigation, and to compel the production of such books and papers. Witnesses who are not employees of the state shall receive the same fees as witnesses in civil cases in the district court, and their fees shall be paid by vouchers. Any officer or employee who interferes in any manner with the ~~director's~~ department's official investigation shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be removed from his or her position, and be fined in a sum not less than ten dollars nor more than one hundred dollars. The claim that any testimony or evidence sought to be elicited or produced may tend to incriminate the person giving or producing it, or expose him or her to public ignominy, shall not excuse him or her from testifying or producing the evidence, but any evidence given by a witness at such an investigation shall not be used against him or her in a criminal prosecution. A witness shall not be exempt from prosecution and punishment for perjury for testifying falsely at an investigation. It shall be the duty of the ~~director~~ department to cause such testimony to be filed in the office of the department as soon thereafter as practicable, and such testimony shall be open for inspection. Any person failing to obey the orders of the ~~director,~~ department, issued under the provisions of this section, shall be reported by the ~~director~~ department to the district court, or any judge thereof, and shall be dealt with by the court or judge as for contempt of court.

Sec. 782. Section 83-115, Reissue Revised Statutes of Nebraska, is amended to read:

83-115 The ~~Director~~ Department of Health and Human Services shall be prepared to give any information desired by the Legislature concerning the institutions under ~~his or her~~ its control, and ~~his or her~~ its administration shall be subject to examination under oath by a legislative committee, touching any matter in regard to which the Legislature may desire information concerning the condition of the institutions, their inmates, and the performance of their duties by the ~~director or his or her employees,~~ department. The committee may call and examine under oath any other persons as witnesses in such investigation. Such examinations shall be conducted in the manner and subject to the provisions of section 83-114.

Sec. 783. Section 83-121, Reissue Revised Statutes of Nebraska, is amended to read:

83-121 There is hereby created the School District Reimbursement Fund for use by the Department of Health and Human Services. The fund shall consist of money received from school districts or the ~~Department of Health and Human Services Finance and Support~~ department pursuant to section 79-1152 for the operation of special education programs within the ~~Department of Health and Human Services-~~ department. The fund shall be used for the operation of such programs pursuant to sections 79-1152, 79-1153, and 79-1155 to 79-1158.

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. 784. Section 83-126, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-126 The ~~Director of Health and Human Services~~ chief executive officer of the Department of Health and Human Services shall appoint the chief executive officer of each facility referred to in section 83-107.01. Each chief executive officer shall report to the ~~director or his or her designee~~ chief executive officer of the department or his or her designee and shall serve full time and without term at the pleasure of the ~~director-~~ chief executive officer of the department.

Sec. 785. Section 83-130, Reissue Revised Statutes of Nebraska, is amended to read:

83-130 An Emergency Revolving Fund, not to exceed three thousand dollars for any one institution, upon order of the ~~Director~~ Department of Health and Human Services, shall be drawn from the State Treasurer, to be used by the chief executive officer of each institution as an emergency cash fund. The fund shall be drawn from the general maintenance appropriation for the ~~director-~~ department. An accounting of this fund shall be made by each executive officer once each month to the ~~director-~~ department.

Sec. 786. Section 83-305.03, Reissue Revised Statutes of Nebraska, is amended to read:

83-305.03 The ~~Director~~ Department of Health and Human Services or the Director of Correctional Services may order the temporary transfer of any person committed to the Department of Health and Human Services or the Department of Correctional Services to the University of Nebraska Medical Center with the concurrence of the chancellor thereof for special diagnosis and treatment of any illness such person may suffer which cannot be properly diagnosed or treated by the medical facilities of the institution of which he or she is a patient or inmate. The responsibility of guarding any such patient or inmate transferred shall remain with the institution of which he or she is a patient or inmate. The Department of Health and Human Services or the Department of Correctional Services shall pay, out of the proper account, all expenses incurred by the University of Nebraska Medical Center on behalf of any patient or inmate so transferred by the respective department.

Sec. 787. Section 83-324, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-324 The ~~Director~~ Department of Health and Human Services may accept patients for care and treatment upon the written application of a patient. Such written application may be made by persons desiring to receive care and treatment in one of the state hospitals for the mentally ill to the chief executive officer of the state hospital in which the patient wishes to receive treatment.

Sec. 788. Section 83-336, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-336 The ~~Director~~ Department of Health and Human Services shall provide the mental health boards with blanks for warrants, certificates, and other forms, such as will enable them to comply with sections 83-313 to 83-357, and also with printed copies of the applicable rules and regulations of the ~~Department of Health and Human Services-~~ department.

Sec. 789. Section 83-348, Reissue Revised Statutes of Nebraska, is amended to read:

83-348 Patients in the state hospitals for the mentally ill having no legal settlement in this state, or whose legal settlement cannot be ascertained, shall be supported at the expense of the state. This section shall apply to all such patients now in the hospitals and shall include expenses already incurred and remaining unpaid. The ~~Director~~ Department of Health and Human Services may authorize the removal of any such patient at the expense of the state.

Sec. 790. Section 83-363, Reissue Revised Statutes of Nebraska, is amended to read:

83-363 As used in sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380, unless the context otherwise requires:

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

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

~~(3) (2) State institution shall mean means~~ the state hospitals at Lincoln, Norfolk, and Hastings, the Beatrice State Developmental Center, and such other institutions as may hereafter be established by the Legislature for the care and treatment of persons with a mental disorder or mental retardation;

~~(4) (3) Relative shall mean means~~ the spouse of a patient or, if the patient has no spouse and is under the age of majority at the time he or she is admitted, the parents of a patient in a state institution; and

~~(5) (4) Parents shall mean means~~ either or both of a patient's natural parents unless such patient has been legally adopted by other parents, in which case parents ~~shall mean means~~ either or both of the adoptive parents.

Sec. 791. Section 83-365, Reissue Revised Statutes of Nebraska, is amended to read:

83-365 The Department of Health and Human Services department shall periodically determine the individual cost, exclusive of the cost of education, for the care, support, maintenance, and treatment of the patients in each state institution and for persons receiving treatment prescribed by an institution following release or without being admitted as a resident patient. In making such determinations, the department may use averaging methods for each institution if, in the judgment of the ~~director,~~ department, it is not practicable to compute the cost for each patient. The cost of capital expenditures and capital construction shall not be included in making such determinations.

Sec. 792. Section 83-366, Reissue Revised Statutes of Nebraska, is amended to read:

83-366 The department shall assess against the patient or his or her relatives all or such part of the cost determined under section 83-365 as they are able to pay, in the judgment of the ~~director,~~ department, except that a patient who is placed in a state institution to receive appropriate special education pursuant to the Special Education Act or his or her relatives shall be assessed only for medical care and medical treatment costs as determined pursuant to rules and regulations adopted and promulgated by the department in accordance with section 83-371.

Sec. 793. Section 83-373, Reissue Revised Statutes of Nebraska, is amended to read:

83-373 Any determination of the ability of a patient or relative to pay shall remain in effect until a redetermination is made. A redetermination shall be made annually and at such additional times when, in the judgment of the ~~director,~~ department, it is appropriate to do so, or when a request is made by the patient or relative who is liable for the payments.

Sec. 794. Section 83-374, Reissue Revised Statutes of Nebraska, is amended to read:

83-374 Any patient or relative aggrieved by a determination of ability to pay may request a hearing before the ~~director.~~ department. The department shall adopt and promulgate rules and regulations to govern the conduct of such hearings. The ~~director~~ department may appoint an examiner who shall have power to preside at such hearing, administer oaths, examine witnesses, and take testimony and shall report the same to the ~~director.~~ department. Such hearings shall be held in the county in which the person requesting the hearing resides, if such person so requests, in which event it shall be the duty of the county board to attend such hearing. The ~~director~~ department shall deliver ~~his or her~~ the decision within sixty days after the conclusion of the hearing. Any patient or relative aggrieved by a decision following a hearing may appeal such decision, and such appeal shall be in accordance with the Administrative Procedure Act.

Sec. 795. Section 83-376, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-376 When the full cost determined to be necessary for the care, support, maintenance, and treatment of any patient is not paid by the patient or his or her relatives within thirty days of receipt of such care, (1) the county in which the patient resides shall pay (a) the first fifteen dollars per day of the unpaid cost for each of the first thirty days at the Hastings Regional Center, the Lincoln Regional Center, the Norfolk Regional Center, or other inpatient treatment facility where the patient is receiving inpatient treatment pursuant to an order of a mental health board under the Nebraska Mental Health Commitment Act or the Sex Offender Commitment Act, (b) the first ten dollars per day of the unpaid cost for each of the first thirty days at the Beatrice State Developmental Center, and (c) the first three dollars per day of the unpaid costs for each day after the first thirty days at any such

institution, (2) the balance of the unpaid cost shall be borne by the state, and (3) the county in which the patient resides shall be credited by the ~~Director of Health and Human Services~~ department for amounts collected from such patient or his or her relatives in excess of the portion of such costs borne by the state.

Sec. 796. Section 83-379, Reissue Revised Statutes of Nebraska, is amended to read:

83-379 In the absence of fraud, a patient and his relatives shall be liable only to the extent of assessments actually made against them respectively, in accordance with sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380. For the purposes of sections 83-227.01, 83-227.02, 83-350, and 83-363 to 83-380, it shall be deemed fraudulent for any patient or his relatives to transfer any assets or property to another person for the purpose of affecting the determination of ability to pay. When it is determined that such a fraudulent transfer has been made, the ~~director~~ department shall consider the value of such assets or property transferred in determining the ability to pay under section 83-368 or 83-369.

Sec. 797. Section 83-380, Reissue Revised Statutes of Nebraska, is amended to read:

83-380 Within thirty days after June 30, 1971, and each year thereafter the ~~Director of Health and Human Services~~ department shall certify to the Director of Administrative Services all amounts not previously certified due to each state institution from the several counties having patients chargeable thereto. The Director of Administrative Services shall thereupon notify the county clerk of each county of the amount each county owes. The county board shall add to its next levy an amount sufficient to raise the amount certified as due. The county shall pay the amount certified into the state treasury on or before the next June 1 following such certification.

From any county which fails to pay the total amount certified as due annually by the next June 1 following certification, there shall be withheld by the State Treasurer from the next allocation to such county due under the provisions of section 77-27,137, an amount sufficient to equal the amount unpaid from such county which amount shall be deducted from the county's portion and not the municipalities' under section ~~77-27,138~~, 77-27,137.01. The State Treasurer shall credit the amount withheld the same as if the county had paid it when due as above provided.

Sec. 798. Section 83-381, Reissue Revised Statutes of Nebraska, is amended to read:

83-381 As used in sections 83-217, 83-218, and 83-381 to 83-390, unless the context otherwise requires:

(1) Person with mental retardation ~~shall mean~~ means any person of subaverage general intellectual functioning which is associated with a significant impairment in adaptive behavior;

(2) ~~Director~~ shall mean the Director ~~Department~~ means the Department of Health and Human Services or such person or agency within the Department of Health and Human Services as the ~~director~~ chief executive officer of the department may designate; and

(3) Residential facility ~~shall mean~~ means an institution specified under section 83-217 to provide residential care by the State of Nebraska for persons with mental retardation.

Sec. 799. Section 83-382, Reissue Revised Statutes of Nebraska, is amended to read:

83-382 Except as provided in sections 79-1148 and 79-1149, the ~~Department of Health and Human Services~~ department shall have jurisdiction of the admission of persons with mental retardation to a residential facility. Applications for admission to a residential facility shall be filed with the ~~director~~ department.

Sec. 800. Section 83-383, Reissue Revised Statutes of Nebraska, is amended to read:

83-383 (1) An application for admission shall be made in writing by one of the following persons:

(a) If the person applying for admission has a court-appointed guardian, the application shall be made by the guardian; and

(b) If the person applying for admission does not have a court-appointed guardian and has not reached the age of majority, as established by section 43-2101, as such section may from time to time be amended, the application shall be made by both parents if they are living together or by the parent having custody of such person if both parents are not then living or are not then living together.

(2) The county court of the county of residence of any person with mental retardation or the county court of the county in which a state

residential facility is located shall have authority to appoint a guardian for any person with mental retardation upon the petition of the husband, wife, parent, person standing in loco parentis to such person, a county attorney, or any authorized official of the Department of Health and Human Services authorized by the director. ~~department.~~ If the guardianship proceedings are initiated by an official of the ~~Department of Health and Human Services,~~ department, the costs thereof may be taxed to and paid by the department if the person with mental retardation is without means to pay the costs. The ~~Department of Health and Human Services~~ department shall pay such costs upon presentation of a proper claim by the judge of the county court in which the proceedings were initiated. The costs of such proceedings shall include court costs, attorneys' fees, sheriffs' fees, psychiatric fees, and other necessary expenses of the guardianship.

Sec. 801. Section 83-384, Reissue Revised Statutes of Nebraska, is amended to read:

83-384 An application for admission to a residential facility shall contain the name, age, and place of residence of the person for whom admission is requested. The application shall set forth the name of the person submitting the application and the capacity in which he or she makes the application. The application shall contain authorization for the ~~director~~ department to obtain all relevant medical records and information concerning the person for whom admission is requested.

Sec. 802. Section 83-385, Reissue Revised Statutes of Nebraska, is amended to read:

83-385 Upon receipt of an application for admission, the ~~director~~ department shall refer the person for whom admission is requested to an agency or person specially qualified in the diagnosis of mental or related conditions for examination and evaluation. Within fourteen days of referral, the agency or person making such examination and evaluation shall return the findings of the examination and evaluation to the ~~director.~~ department. The findings and evaluation may also include recommendations with respect to the placement of the person for whom admission is requested in a residential facility. The ~~director~~ department may require further examination of the person for whom admission is requested.

Sec. 803. Section 83-386, Reissue Revised Statutes of Nebraska, is amended to read:

83-386 The ~~director~~ department shall examine all information concerning the person for whom admission is requested and shall determine therefrom whether the person is a person with mental retardation and whether residence in the residential facility is necessary for the welfare, care, treatment, or training of such person. Such determination shall be made in writing and shall set forth the reasons for the determination. If at any time it shall become necessary, for want of room or other cause, to discriminate in the admission of persons with mental retardation to residential facilities, the selection shall be made as follows: (1) Persons whose care is necessary in order to protect themselves or the public health and safety; (2) persons who are most likely to be benefited thereby; (3) persons shall next be admitted in the order in which their applications for admission have been filed with the ~~director,~~ department; and (4) when cases are equally meritorious in all other respects, an indigent person or a person from an indigent family shall be given preference.

Sec. 804. Section 83-387, Reissue Revised Statutes of Nebraska, is amended to read:

83-387 At such time as the ~~director~~ department determines that continued residence in a residential facility will no longer benefit a person with mental retardation, ~~he or she~~ the department shall arrange for the discharge or transfer of such person from the residential facility. The ~~director~~ department shall give reasonable notice to the person authorized to make an application for admission for such person under subsection (1) of section 83-383 that ~~he or she~~ the department intends to discharge or transfer such person. The ~~director~~ department shall also be responsible for the placement of such person in any other available program or facility and in the development of other methods for the care, treatment, and training of such person.

Sec. 805. Section 83-390, Reissue Revised Statutes of Nebraska, is amended to read:

83-390 A person shall not lose his or her rights as a citizen, his or her property rights, or his or her legal capacity by reason of being admitted to a residential facility. The ~~director~~ department may make reasonable rules and regulations concerning the exercise of such rights within the residential facility. Every person admitted to a residential facility under sections 83-217, 83-218, and 83-381 to 83-390 shall have an absolute

right to communicate with the ~~director, department,~~ any court, a member of his or her family who does not file a written objection thereto with the ~~director, department,~~ a physician, or an attorney and to be visited at any reasonable hour by a physician or attorney. The ~~director~~ department may make reasonable rules and regulations concerning communication by letter or otherwise with any other person or agency and concerning the right to receive other visitors.

Sec. 806. Section 83-802, Reissue Revised Statutes of Nebraska, is amended to read:

83-802 Pursuant to the compact as provided in section 83-801, the ~~Director of Health and Human Services~~ chief executive officer of the Department of Health and Human Services or such person as the ~~director~~ chief executive officer may designate shall be the compact administrator and shall have the power to promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator is hereby authorized, empowered, and directed to cooperate with all departments, agencies, and officers of and in the government of this state and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state thereunder.

Sec. 807. Section 83-1204, Reissue Revised Statutes of Nebraska, is amended to read:

83-1204 Department shall mean the Division of Developmental Disabilities of the Department of Health and Human Services.

Sec. 808. Section 83-1206, Reissue Revised Statutes of Nebraska, is amended to read:

83-1206 Director shall mean the ~~Director of Health and Human Services.~~ Developmental Disabilities of the Division of Developmental Disabilities.

Sec. 809. Section 83-1216, Revised Statutes Cumulative Supplement, 2006, is amended to read:

83-1216 (1) Beginning July 1, 1995, persons determined to be eligible for specialized services who on or after September 6, 1993, graduate from high school, reach the age of twenty-one years, or are currently receiving services shall receive services in accordance with the Developmental Disabilities Services Act. The amount of funding for any person receiving services shall be determined using an objective assessment process developed by the plan in subsection (3) of this section.

(2) The department shall provide directly or by contract service coordination to Nebraska residents found to be eligible for specialized services.

(3) It is the intent of the Legislature that by July 1, 2010, all persons determined to be eligible for services shall receive services in accordance with the act. The department shall establish a workgroup including representatives from the State Department of Education, the Advisory Committee on Developmental Disabilities, the Developmental Disabilities Planning Council, consumers, families, consumer advocacy organizations, developmental disabilities service providers, and other interested parties. On or before December 1, 2004, the Department of Health and Human Services, in consultation with the workgroup, shall submit a report to the Legislature and the Governor for the development and provision of needed specialized services to implement such intent. Such plan shall provide for, but shall not be limited to: (a) The adequate and equitable distribution of available funding for the provision of specialized services pursuant to an objective assessment process; (b) the incremental statewide implementation of such process for the provision of specialized services; and (c) the projected number of persons who will likely become eligible for specialized services under the act during the next calendar year. The workgroup shall terminate upon submission of such plan on or December 1, 2004, whichever occurs earlier.

(4) It is the intent of the Legislature that the department take all possible steps to maximize funding in order to implement subsections (1) and (2) of this section prior to the date these subsections become entitlements. All Nebraska residents eligible for funding for specialized services under the Developmental Disabilities Services Act shall apply for and accept any federal medicaid benefits for which they may be eligible and benefits from other funding sources within the department, the State Department of Education, specifically including the Division of Rehabilitation Services, and other agencies to the maximum extent possible.

Sec. 810. Section 84-1409, Revised Statutes Cumulative Supplement, 2006, is amended to read:

84-1409 For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political



subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders; and ~~(iii) the Policy Cabinet created in section 81-3009;~~

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Videoconferencing means conducting a meeting involving participants at two or more locations through the use of audio-video equipment which allows participants at each location to hear and see each meeting participant at each other location, including public input. Interaction between meeting participants shall be possible at all meeting locations.

Sec. 811. Section 85-134, Revised Statutes Cumulative Supplement, 2006, is amended to read:

85-134 The University of Nebraska Medical Center Medical Education Revolving Fund is hereby established to be administered by the Department of Health and Human Services. ~~Finance and Support.~~ The fund shall be used to fund medical education. 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. 812. Section 86-570, Revised Statutes Cumulative Supplement, 2006, is amended to read:

86-570 (1) The Geographic Information System Steering Committee is hereby created and shall consist of nineteen members as follows:

(a) The Chief Information Officer or his or her designee and the director or designee of the Department of Environmental Quality, the Department of Health and Human Services, ~~Regulation and Licensure,~~ the Conservation and Survey Division of the University of Nebraska, the Department of Natural Resources, and the Governor's Policy Research Office;

(b) The Director-State Engineer or designee;

(c) The State Surveyor or designee;

(d) The Clerk of the Legislature or designee;

(e) The secretary of the Game and Parks Commission or designee;

(f) The Property Tax Administrator or designee;

(g) One representative of federal agencies appointed by the Governor;

(h) One representative of the natural resources districts nominated by the Nebraska Association of Resources Districts and appointed by the Governor;

(i) One representative of the public power districts appointed by the Governor;

(j) Two representatives of the counties nominated by the Nebraska Association of County Officials and appointed by the Governor;

(k) One representative of the municipalities nominated by the League of Nebraska Municipalities and appointed by the Governor; and

(l) Two members at large appointed by the Governor.

(2) The appointed members shall serve for terms of four years, except that of the initial members appointed by the Governor, one of the representatives of the counties shall be appointed for one year and the other shall be appointed for three years, one of the members at large shall be appointed for one year and the other for three years, and the representative of the public power districts shall be appointed for two years. Their successors shall be appointed for four-year terms. Any vacancy on the committee shall be filled in the same manner as the original appointment, and the person selected to fill such vacancy shall have the same qualifications as the member whose vacancy is being filled.

(3) The members shall be reimbursed for their actual and necessary

expenses as provided in sections 81-1174 to 81-1177.

Sec. 813. This act becomes operative on July 1, 2007.

Sec. 814. Original sections 2-3925, 2-3932, 13-1207, 23-3595, 31-740, 32-327, 37-1254.05, 37-1254.06, 42-106, 42-358.01, 42-705, 42-917, 43-102, 43-104.01, 43-104.02, 43-104.03, 43-104.04, 43-107, 43-118, 43-119, 43-123.01, 43-124, 43-125, 43-126, 43-127, 43-130, 43-131, 43-132, 43-133, 43-134, 43-135, 43-137, 43-138, 43-139, 43-140, 43-141, 43-142, 43-143, 43-144, 43-145, 43-146, 43-146.02, 43-146.04, 43-146.05, 43-146.06, 43-146.07, 43-146.08, 43-146.09, 43-146.10, 43-146.11, 43-146.12, 43-146.13, 43-146.14, 43-146.15, 43-146.16, 43-161, 43-284.02, 43-404, 43-411, 43-504.01, 43-507, 43-508, 43-511, 43-512, 43-512.11, 43-515, 43-523, 43-525, 43-529, 43-536, 43-905, 43-907, 43-908, 43-1320, 43-1408.01, 43-1414, 43-1718.02, 43-1720, 43-1902, 43-1903, 43-1904, 43-1905, 43-2002, 43-2003, 43-2411, 43-2503, 43-2511, 43-2515, 43-2605, 43-2616, 43-2617, 43-2620, 43-3305.01, 43-3314, 43-3317, 43-3318, 43-3319, 43-3320, 43-3323, 43-3325, 43-3326, 43-3327, 43-3329, 43-3333, 43-3334, 43-3335, 43-3336, 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Sec. 815. The following sections are outright repealed: Sections 68-1729, 68-1730, 71-355, 71-6011, 71-6319.17, 81-2207, 81-2241, 81-3103, 81-3108, 81-3203, 81-3303, and 83-125, Reissue Revised Statutes of Nebraska, and sections 43-2414, 81-3001, 81-3001.01, 81-3004, 81-3006, 81-3007.01, 81-3008, 81-3009, 81-3101, 81-3102, 81-3106, 81-3107, 81-3109, 81-3201, 81-3202, 81-3206, 81-3207, 81-3208, 81-3209, 81-3210, 81-3211, 81-3301, 81-3302, 81-3306, 81-3307, 81-3308, 81-3309, 81-3310, and 81-3311, Revised Statutes Cumulative Supplement, 2006.

Sec. 816. Since an emergency exists, this act takes effect when passed and approved according to law.