

## LEGISLATIVE BILL 622

Approved by the Governor June 16, 1997

Introduced by Health and Human Services Committee: Wesely, 26, Chairperson; Dierks, 40; Jensen, 20; Matzke, 47; C. Peterson, 35; Suttle, 10

AN ACT relating to public health and welfare; to amend sections 2-3256, 21-2205, 39-1603, 39-2306, 43-248, 43-251, 43-277, 43-278, 43-2108, 46-701, 48-224, 71-101, 71-147, 71-162, 71-1235, 71-1,314, 71-201, 71-203, 71-208, 71-211.01, 71-212, 71-217, 71-219.01, 71-219.02, 71-219.04, 71-220.01, 71-223.01, 71-225, 71-227, 71-232, 71-245, 71-1564, 71-1903, 71-1913, 71-2017.01, 71-2021.01, 71-2601, 71-3101, 71-3102, 71-4629, 71-5305, 71-5311, 71-5832.01, 71-6801, 76-846, 76-881, 76-894, 81-502.01, 81-513, 81-8,126, 81-8,206, 81-8,240, 81-1201.08, 81-1609, and 81-2103, Reissue Revised Statutes of Nebraska, and sections 23-1901, 33-150, 43-245, 43-247, 43-250, 43-272.01, 43-284, 43-2,129, 81-1108.43, 81-1504, 81-15,155, 81-3003, 81-3009, and 81-3201, Revised Statutes Supplement, 1996; to adopt the Engineers and Architects Regulation Act; to provide for mental health placement for juveniles; to change a wage withholding provision for nonprofit health federations; to provide for provisional licensure and certification of certain professionals as prescribed; to provide an exemption from regulation for certain respiratory therapy techniques; to change licensure qualifications for mental health practitioners; to clarify licensing provisions for barber schools and barber shops; to provide and clarify fees; to transfer duties from the Department of Health and Human Services Regulation and Licensure to the Board of Barber Examiners; to make references to the Barber Act consistent; to eliminate and transfer health and sanitation inspection provisions; to change provisions and definitions relating to nursing home licensure; to redefine recreation camp; to change fees for recreation camps; to change utility and sanitary standards for mobile home parks; to require certain contract provisions; to change an operative date for the Clinical Laboratories Certification Act; to change provisions of the Nebraska Partnership for Health and Human Services Act; to provide for appointment of a chief medical officer; to eliminate regulation of and penalties for unlawful toys; to repeal the Nursing Incentive Act and provisions on engineers and architects; to harmonize provisions; to provide operative dates; to provide severability; to repeal the original sections; to outright repeal sections 28-1430, 28-1431, 28-1433, 71-901 to 71-905, 71-1766 to 71-1771, and 81-839 to 81-856, Reissue Revised Statutes of Nebraska, and section 28-1432, Revised Statutes Supplement, 1996; and to declare an emergency.

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

Section 1. Sections 1 to 55 of this act shall be known and may be cited as the Engineers and Architects Regulation Act.

Sec. 2. In order to safeguard life, health, and property and to promote the public welfare, the professions of architecture and engineering are declared to be subject to regulation in the public interest. It is unlawful for any person to (1) practice or offer to practice architecture or engineering in this state, (2) use in connection with his or her name, except as provided in sections 13, 14, and 15 of this act, or otherwise assume the title architect or professional engineer, or (3) advertise any title or description tending to convey the impression that he or she is a licensed architect or engineer unless the person is duly licensed or exempt from licensure under the Engineers and Architects Regulation Act. The practice of architecture and engineering and use of the titles architect or professional engineer is a privilege granted by the state through the board based on the qualifications of the individual as evidenced by a certificate of licensure which is not transferable.

Sec. 3. For purposes of the Engineers and Architects Regulation Act, the definitions found in sections 4 to 27 of this act shall be used.

Sec. 4. Architect means a person who engages in the practice of architecture and who has a current certificate of licensure issued by the board.

Sec. 5. Board means the Board of Engineers and Architects.

Sec. 6. Consulting engineer means a professional engineer whose

principal occupation is the independent practice of engineering, whose livelihood is obtained by offering engineering services to the public, who serves clients as an independent fiduciary, who is devoid of public, commercial, and product affiliation that might tend to imply a conflict of interest, and who is cognizant of his or her public and legal responsibilities and is capable of discharging them.

Sec. 7. Continuing education means the process of training and developing knowledge related to a profession after licensure is attained.

Sec. 8. Coordinating professional means an architect or professional engineer who coordinates, as qualified, the various professional disciplines involved in a project.

Sec. 9. Design means the preparation of schematics, layouts, plans, drawings, specifications, calculations, and other diagnostic documents which show the features, scope, and detail of an architectural or engineering work to be executed.

Sec. 10. Design profession, design professionals, or licensed professional means the professions of architecture and engineering.

Sec. 11. Direct supervision means the degree of supervision by a person overseeing the work of other persons by which the supervisor has control over and professional knowledge of the work being done.

Sec. 12. Emeritus, referring to an architect or professional engineer, means a professional who relinquishes or does not renew his or her licensure and who is approved by the board to receive publications and use the honorary title emeritus.

Sec. 13. Engineer means a person who is qualified to practice engineering by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by engineering education and engineering experience, both of which are satisfactory to the board.

Sec. 14. Engineer-intern means a person who has passed an examination in the fundamental engineering subjects as provided in section 51 of this act.

Sec. 15. Estimator, technician, or other similar titles means a person who through training or experience is performing under the supervision of an architect or professional engineer tasks associated with the practice of architecture or engineering.

Sec. 16. Good moral character means such character as will enable a person to discharge the fiduciary duties of an architect or professional engineer to his or her client and to the public for the protection of the public health, safety, and welfare. Evidence of inability to discharge such duties includes the commission of an offense justifying discipline.

Sec. 17. Occasional, part-time, or consulting services means services not provided by a full-time member of an organization engaged in a design profession.

Sec. 18. Organization includes a partnership, limited liability company, corporation, or other form of business entity but not public service providers.

Sec. 19. Planning means the mental formulation and written or graphic representation of a program for the accomplishment or attainment of design.

Sec. 20. Practice of architecture means rendering or offering to render services in connection with the design and construction, enlargement, or alteration of a building or group of buildings and the space within and surrounding the buildings. The services include planning, providing preliminary studies, designs, drawings, specifications, and other technical submissions, administration of construction contracts, coordination of any elements of technical submissions prepared by others including as appropriate and without limitation, consulting engineers and landscape architects, and acting as a coordinating professional. The practice of architecture does not include the practice of engineering.

Sec. 21. Practice of engineering means any service or creative work if the adequate performance of the service or work requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to include such services or creative work as consultation, investigation, evaluation, planning, design and design coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, the review of construction for the purpose of monitoring compliance with drawings and specifications, administration of construction contracts, and acting as a coordinating professional, and any of which embraces such services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and

industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of any engineering services. The practice of engineering does not include the practice of architecture.

Design coordination includes the review and coordination of those technical submissions prepared by others, including, but not limited to, as appropriate and without limitation, consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of the professional engineer.

Engineering surveys includes all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineering projects but excludes the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

A person shall be construed to practice or offer to practice engineering, within the meaning and intent of the Engineers and Architects Regulation Act, if he or she: (1) Practices any branch of the profession of engineering; (2) by verbal claim, sign, advertisement, letterhead, or card or in any other way, represents himself or herself to be a professional engineer; (3) through the use of some other title, implies that he or she is a professional engineer or licensed under the Engineers and Architects Regulation Act; or (4) holds himself or herself out as able to perform or does perform any engineering service or work or any other service designated by the practitioner which is recognized by the board as engineering. The practice of engineering does not include the services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, and marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant.

Sec. 22. Professional engineer means a person who is licensed as a professional engineer by the board. The board may designate a professional engineer, on the basis of education, experience, and examination, as being licensed in a specific discipline or branch of engineering signifying the area in which the professional engineer has demonstrated competence.

Sec. 23. Public service provider means any political subdivision which appoints a municipal engineer or which employs a full-time person licensed under the Engineers and Architects Regulation Act who is in responsible charge of architectural or engineering work.

Sec. 24. Registration or licensure means a certificate of registration or licensure issued by the board. The definition of license and registration shall be synonymous.

Sec. 25. Responsible charge means control and supervision for engineering or architectural work.

Sec. 26. Rules and regulations means rules and regulations adopted and promulgated under the Engineers and Architects Regulation Act by the board.

Sec. 27. Technical submissions means designs, drawings, specifications, studies, and other technical reports.

Sec. 28. (1) The Board of Engineers and Architects is created to administer the Engineers and Architects Regulation Act. The board may use any funds available to obtain suitable office space within Lincoln, Nebraska. The board shall consist of six members appointed by the Governor, after consultation with the appropriate professional organizations, for terms of five years terminating on the last day of February, and two education members appointed as prescribed in subsection (2) of this section. The board shall consist of:

(a) Three architect members, including one education member;

(b) Four professional engineer members, including one education member; and

(c) One public member.

Each member shall hold office after the expiration of his or her term until his or her successor is duly appointed and qualified. The Governor may remove any member of the board for misconduct, incompetency, or neglect of duty. Vacancies in the membership of the board, however created, shall be filled for the unexpired term by appointment by the Governor. The Board of Examiners for Professional Engineers and Architects as it existed immediately prior to the operative date of this section shall serve as the Board of Engineers and Architects until the additional public member is appointed. The

Governor shall reappoint or replace existing members as their terms expire, and the public member shall be reappointed or replaced in the fifth year of his or her term.

(2) The board shall include two education members who are licensed in the relevant profession representing the professional faculty of the College of Engineering and Technology and the College of Architecture within the University of Nebraska, as recommended by the dean of the respective college and appointed by the Governor. The appointments are for five years.

(3) The board may designate a former member of the board as an emeritus member. Emeritus member status, when conferred, must be renewed annually.

Sec. 29. Each member of the board shall be a citizen of the United States and a resident of the State of Nebraska for at least one year immediately preceding appointment. Each professional member shall have been engaged in the active practice of the design profession 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 licensed in the appropriate profession. Each member of the board shall receive as compensation not more than sixty dollars per day for each day actually spent in traveling to and from and while attending sessions of the board and its committees or authorized meetings of the National Council of Architectural Registration Boards, the National Council of Examiners for Engineering and Surveying, or their subdivisions or committees, and all necessary expenses incident to the performance of his or her duties under the Engineers and Architects Regulation Act as provided in sections 81-1174 to 81-1177.

Sec. 30. Each member of the board shall receive a certificate of appointment from the Governor and, before beginning his or her term of office, shall file with the Secretary of State the constitutional oath of office. The board or any committee of the board is entitled to the services of the Attorney General in connection with the affairs of the board, and the board may compel the attendance of witnesses, administer oaths, and take testimony and proofs concerning all matters within its jurisdiction. The Attorney General shall act as legal advisor to the board and render such legal assistance as may be necessary in carrying out the Engineers and Architects Regulation Act. The board shall adopt and have an official seal, which shall be affixed to all certificates of licensure granted, and shall adopt and promulgate rules and regulations to carry out the act. The rules and regulations of the Board of Examiners for Professional Engineers and Architects in effect immediately prior to the operative date of this section shall continue in effect until changed by the Board of Engineers and Architects.

Sec. 31. The board shall hold at least one regular meeting each year. Special meetings shall be held as the rules and regulations provide and at such places as the board elects. Notice of all meetings shall be given in such manner as the rules and regulations provide. The board shall elect from its members, annually at its first meeting after March 1, a chairperson, vice-chairperson, and secretary. A quorum of the board shall consist of not less than five members.

Sec. 32. The Engineers and Architects Regulation Fund is created. The secretary of the board shall receive and account for all money derived from the operation of the Engineers and Architects Regulation Act and shall remit the money to the State Treasurer for credit to the Engineers and Architects Regulation Fund. All expenses certified by the board as properly and necessarily incurred in the discharge of duties, including compensation and administrative staff, and any expense incident to the administration of the act relating to other states shall be paid out of the fund. Warrants for the payment of expenses shall be issued by the Director of Administrative Services and paid by the State Treasurer upon presentation of vouchers regularly drawn by the chairperson and secretary of the board and approved by the board. At no time shall the total amount of warrants exceed the total amount of the fees collected under the act and to the credit 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. Any money in the Professional Engineering and Architectural Examiners' Fund on the operative date of this section shall be transferred to the Engineers and Architects Regulation Fund.

Sec. 33. The secretary of the board shall publish a complete roster showing the names and last-known addresses of all architects and professional engineers at intervals as established by the board. The secretary shall file the roster with the Secretary of State and may mail a copy to each licensed person as well as county and municipal officials. The secretary of the board may also sell or distribute copies of the roster to the public.

Sec. 34. (1) The Legislature hereby finds and declares that a code of practice established by the board by which architects and professional engineers could govern their professional conduct would be beneficial to the state and would safeguard the life, health, and property of the citizens of this state.

(2) The code of practice established by this section shall include provisions on:

- (a) Professional competence;
- (b) Conflict of interest;
- (c) Full disclosure of financial interest;
- (d) Full disclosure of matters affecting public safety, health, and

welfare;

- (e) Compliance with laws;
- (f) Professional conduct and good character standards; and
- (g) Practice of architecture and engineering.

(3) The board may establish a code of practice through rules and regulations.

(4) The board may publish commentaries regarding the code of practice. The commentaries shall explain the meaning of interpretations given to the code by the board.

Sec. 35. (1) Application for licensure as an architect or professional engineer or enrollment as an engineer-intern shall be made on a form prescribed and furnished by the board. It shall contain statements made under oath showing the applicant's education and a detailed summary of technical experience and shall include the names and complete mailing addresses of the references, none of whom should be members of the board. The board may accept the verified information contained in a valid Council Record issued by the National Council of Architectural Registration Board or the National Council of Examiners for Engineering and Surveying in lieu of the same information that is required on the form prescribed and furnished by the board.

(2) Application and licensure fees shall be established by the board and shall accompany the application. Original and reciprocal fees shall not exceed three hundred dollars and shall be in addition to the examination fee which shall be set to recover the costs of examination and its administration.

(3) The fee for intern enrollment shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars and shall be in addition to the examination fee which shall be set to recover the costs of the examination and its administration.

(4) The certificate of authorization fee for organizations shall be established by the board and shall accompany the application. The fee shall not exceed three hundred dollars per year.

(5) The fee for emeritus status shall be established by the board and shall accompany the application. The fee shall not exceed one hundred dollars per year.

(6) If the board denies the issuance of a certificate or enrollment to any applicant, including the application of an organization for a certificate of authorization, the board shall retain the fee.

Sec. 36. (1) The practice or offer to practice for others the professions of architecture or engineering by individuals licensed under the Engineers and Architects Regulation Act through an organization is permitted if the criteria for organizational practice established by the board are met and the organization had been issued a certificate of authorization by the board. All technical submissions by an organization involving the practice of architecture and engineering, when issued or filed for public record, shall be dated and bear the signature and seal of the licensee qualified in the profession who prepared the submission or under whose immediate direction they were prepared. Public service providers are not included in this section.

(2) An organization desiring a certificate of authorization shall file with the board an application, using the form provided by the board, listing the names and addresses of all officers of the organization, the members of the organization's governing body, and the individual or individuals duly licensed to practice their respective professions in this state who shall be in responsible charge of the practice of those professions in the state through the organization. Any change in status of any of these persons during the certificate period shall be designated on the same form and filed with the board within thirty days after the effective date of the change. If the requirements of this section are met, the board shall issue a certificate of authorization to the organization and the organization may contract for and collect fees for furnishing professional services.

(3) The act shall not prevent an organization from performing professional services for itself.

(4) An organization is not relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with this section. An individual practicing architecture or engineering is not relieved of responsibility for services performed by reason of employment or any other relationship with an organization holding a certificate of authorization.

(5) Commencing one year after the operative date of this section, the Secretary of State shall not issue a certificate of authority to do business in the state to an applicant or issue a registration of name to an organization which includes among the objectives for which it is established the practice of architecture or engineering, or any modification or derivation of those design professions, unless the board has issued the applicant a certificate of authorization or a letter indicating the eligibility of the applicant to receive a certificate. The organization shall supply the certificate or letter with its application for incorporation or licensure.

(6) Commencing one year after the operative date of this section, the Secretary of State shall not register any trade name or service mark which includes the words architect or engineer, or any modification or derivative of such words, in its firm name or logotype except to those organizations holding authorization certificates issued by the board except as authorized in the act or in the Professional Landscape Architects Act.

(7) The certificate of authorization shall be renewed periodically as required by the board.

(8) A design professional who renders occasional, part-time, or consulting services to or for an organization may not for the purposes of this section be designated as being responsible for the professional activities of the organization.

Sec. 37. (1) The board shall issue to any applicant who, on the basis of education, experience, and examination, has met the requirements of the Engineers and Architects Regulation Act a certificate of licensure giving the licensee proper authority to carry out the prerogatives of the act. The certificate of licensure shall carry the designation Licensed Architect or Licensed Professional (discipline) Engineer. The certificate shall give the full name of the licensee and license number and shall be signed by the chairperson of the board, the secretary of the board, and a board member representing the respective profession under the seal of the board.

(2) The certificate shall be prima facie evidence that the person is entitled to all rights, privileges, and responsibilities of an architect or a professional engineer while the certificate of licensure remains unrevoked and unexpired.

(3)(a) Each licensee authorized to practice architecture or engineering must obtain a seal. It shall be unlawful for a licensee to affix his or her seal and signature or to permit his or her seal and signature to be affixed to any document after the expiration of the certificate or for the purpose of aiding or abetting any other person to evade or attempt to evade the act.

(b) The seal may be a rubber stamp or may be generated electronically. Whenever the seal is applied, the licensee's written signature and the date shall be across the seal. No further words or wording are required. Electronic signatures applied to electronic seals must be protected with an electronic revision approval system. Documents without electronic revision approval protection that are transmitted electronically to a client or a governmental agency shall have the seal removed from the file. The electronic media shall have the following inserted in lieu of the seal, signature, and date:

This document was originally issued and sealed by (name of sealer), (license number), on (date of sealing). This media should not be considered a certified document.

(c) The seal, signature, and date shall be placed on all technical submissions and calculations whenever presented to a client or any public or governmental agency.

(d) The seal, signature, and date shall be placed on all originals, copies, tracings, or other reproducible drawings and the first and last pages of specifications, reports, and studies in such a manner that the seal, signature, and date will be reproduced and be in compliance with rules and regulations of the board. The application of the licensee's seal and signature shall constitute certification that the work was done by the licensee or under the licensee's control. In the case of multiple sealings, the first or title page shall be sealed, signed, and dated by all involved. In addition, each sheet shall be sealed, signed, and dated by the licensee responsible for each sheet. In the case of an organization, each sheet shall be sealed, signed, and dated by the licensee involved. The architect or

professional engineer in responsible charge shall sign, seal, and date the title or first sheet.

(e) In the case of a temporary permit issued to a licensee of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and temporary permit to all his or her work.

(f) The design of the seal shall be determined by the board. The following information shall be on the seal: State of Nebraska; licensee's name; licensee's license number; and the words Architect or Professional (discipline) Engineer.

(g) Projects involving more than one licensed architect or professional engineer shall have one designated as the coordinating professional. The coordinating professional shall apply his or her seal and signature and the date to the cover sheet of all documents and denote the seal as that of the coordinating professional.

(4) The board shall issue to any applicant who, in the opinion of the board, has met the requirements of the act an enrollment card as engineer-intern which indicates that his or her name has been recorded as such in the board office. The engineer-intern enrollment card does not authorize the holder to practice as a professional engineer.

Sec. 38. Certificates of licensure and certificates of authorization shall expire on a date established by the board and shall become invalid after that date unless renewed. The secretary of the board shall notify every person licensed under the Engineers and Architects Regulation Act and every organization holding a certificate of authorization under the act of the date of the expiration of the certificate of licensure or certificate of authorization and the amount of the fee required for renewal. The notice shall be mailed to the licensee or organization at the last-known address on file with the board at least one month in advance of the date of the expiration. Renewal may be effected at any time prior to or during the period established by the board upon application and payment of a renewal fee. The fee shall not exceed two hundred dollars per year. Renewal of an expired certificate may be effected under rules and regulations of the board regarding requirements for reexamination and for penalty fees. The board may adopt a program of continuing education for individual licensees.

Sec. 39. The board may issue a new certificate of licensure or certificate of authorization to replace any lost, destroyed, or mutilated certificate. A fee not to exceed one hundred dollars shall be charged for each such issuance.

Sec. 40. The board shall enforce the Engineers and Architects Regulation Act and the rules and regulations, including enforcement against any unlicensed person. If any person refuses to obey any decision or order of the board, the board or, upon the request of the board, the Attorney General or the appropriate county attorney shall file an action for the enforcement of the decision or order, including injunctive relief, in the district court. After a hearing, the court shall order enforcement of the decision or order, or any part thereof, if legally and properly made by the board and, if appropriate, injunctive relief.

Sec. 41. Except as provided in sections 13, 14, 15, and 48 to 53 of this act, an individual shall not directly or indirectly engage in the practice of architecture or engineering in the state or use the title architect or professional engineer or display or use any words, letters, figures, titles, sign, card, advertisement, or other symbol or device indicating or tending to indicate that he or she is an architect or professional engineer or is practicing architecture or engineering unless he or she is licensed under the Engineers and Architects Regulation Act. A licensee shall not aid or abet any person not licensed under the act in the practice of architecture or engineering.

Sec. 42. Any person who performs any of the following actions is guilty of a Class I misdemeanor for the first offense and a Class IV felony for the second or any subsequent offense:

(1) Practices or offers to practice architecture or engineering in this state without being licensed in accordance with the Engineers and Architects Regulation Act;

(2) Knowingly and intentionally employs or retains a person to practice architecture or engineering in this state who is not licensed in accordance with the act except as provided in sections 13, 14, and 15 and who is not exempted by sections 48 to 53 of this act;

(3) Uses the words architect, engineer, or any modification or derivative of such words in its name or form of business activity except as authorized in the act or in the Professional Landscape Architects Act;

(4) Presents or attempts to use the certificate of licensure or the seal of another person;

(5) Gives any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate;

(6) Falsely impersonates any other licensee of like or different name;

(7) Attempts to use an expired, suspended, revoked, or nonexistent certificate of licensure or who practices or offers to practice when not qualified;

(8) Falsely claims that he or she is licensed or authorized under the act; or

(9) Violates the act.

Sec. 43. Charges against any person involving any matter coming within the jurisdiction of the board shall be in writing and shall be filed with the board. The charges, at the discretion of the board, shall be heard within a reasonable time in accordance with the rules and regulations and may be heard through the use of a hearing officer. The accused shall have the right to appear personally with or without counsel, to cross-examine adverse witnesses, and to produce evidence and witnesses in his or her defense. The board shall set the time and place for the hearing and shall cause a copy of the charges, together with a notice of the time and place fixed for the hearing, to be sent by registered mail to the accused, at his or her last-known business or residence address known to the board, at least thirty days before the hearing. If after the hearing the board finds the accused has violated the Engineers and Architects Regulation Act or any rules or regulations, it may issue any order or take any action described in section 44 of this act. If the board finds no violation, it shall enter an order dismissing the charges. If the order revokes, suspends, or cancels a license, the board shall notify, in writing, the Secretary of State and the clerk of the city or village in the state where the person has a place of business, if any. The board may reissue a license to any person whose license has been revoked. Application for the reissuance of a license shall be made in such a manner as the board directs and shall be accompanied by a fee established by the board.

Sec. 44. (1) The board may after hearing, by majority vote, take any or all of the following actions, upon proof satisfactory to the board that any person or organization has violated the Engineers and Architects Regulation Act or any rules or regulations. The following actions may be taken against a holder of a license upon a two-thirds majority vote of the board:

(a) Issuance of censure or reprimand;

(b) Suspension of judgment;

(c) Placement of the offender on probation;

(d) Placement of a limitation or limitations on the holder of a license and upon the right of the holder of a license 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;

(e) Imposition of a civil penalty not to exceed ten thousand dollars for each offense. The amount of the penalty shall be based on the severity of the violation;

(f) Entrance of an order of revocation, suspension, or cancellation of the certificate of licensure;

(g) Issuance of a cease and desist order;

(h) Imposition of costs as in an ordinary civil action in the district court, which may include reasonable attorney's fees and hearing officer fees incurred by the board and the expenses of any investigation undertaken by the board; or

(i) Dismissal of the action.

(2) In hearings under this section, the board may take into account suitable evidence of reform.

(3) Civil penalties collected under subdivision (1)(e) of this section shall be remitted to the State Treasurer for credit to the permanent school fund. All costs collected under subdivision (1)(h) of this section shall be remitted to the State Treasurer for credit to the Engineers and Architects Regulation Fund.

Sec. 45. Except as provided in sections 49 to 53 of this act, the state and its political subdivisions shall not engage in the construction of any public works involving architecture or engineering unless the plans, specifications, and estimates have been prepared and the construction has been observed by an architect, a professional engineer, or a person under the direct supervision of an architect, professional engineer, or those under the direct supervision of an architect or professional engineer except that this section shall not apply to any public work in which the contemplated expenditure for the complete project does not exceed forty thousand dollars.



Sec. 46. (1) The owner of any real property who allows a project to be constructed on his or her real property is enqaged in the practice of architecture or engineering unless he or she employs or causes others to employ licensed professionals or persons under the direct supervision of licensed professionals to furnish at least minimum construction phase services with respect to the project or is exempt from the Engineers and Architects Regulation Act under sections 49 and 53 of this act.

(2) For purposes of this section:

(a) Building official means the person appointed by the state or political subdivision having jurisdiction over the project to have principal responsibility for the safety of the project as completed;

(b) Construction phase service includes at least the following services: (i) Visiting the project site on a regular basis as is necessary to determine that the work is proceeding generally in accordance with the technical submissions submitted to the building official at the time the project permit was issued; and (ii) processing technical submissions required of the contractor by the terms of contract documents. The term does not include supervision of construction, review of payment applications, resolution of disputes between the owner and contractor, and other such items which are considered additional construction administration services which the owner may or may not elect to include in the architect's or engineer's scope of work;

(c) Owner means with respect to any real property the following persons: (i) The record owner of such real property; (ii) the lessee of all or any portion of the real property when the lease covers all of that portion of the real property upon which the project is being constructed, the lessee has significant approval rights with respect to the project, and the lease, at the time the project begins, has a remaining term of not less than ten years; or (iii) the grantee of an easement granting right-of-way to construct the project; and

(d) Project means the construction, enlargement, or alteration of works involving the practice of architecture or engineering other than those exempted by sections 49 to 53 of this act.

Sec. 47. A public official charged with the duty or responsibility of accepting or approving plans, specifications, plats, and reports shall not accept or approve plans, specifications, plats, or reports which have not been prepared in accordance with the Engineers and Architects Regulation Act.

Sec. 48. (1) A person applying to the Board of Engineers and Architects for initial licensure as an architect shall submit an application accompanied by the fee established by the board and satisfactory evidence that he or she holds a degree in architecture accredited by the National Architectural Accreditation Board and that he or she has completed practical training in architectural work as required by the Board of Engineers and Architects. If an applicant is qualified, the Board of Engineers and Architects shall, by means of a written or electronic examination, examine the applicant on technical and professional subjects as prescribed by the board. None of the examination materials shall be considered public records. The board may exempt from the written examination an applicant who holds a certification issued by the National Council of Architectural Registration Boards. The Board of Engineers and Architects may adopt guidelines published from time to time by the National Council of Architectural Registration Boards. The Board of Engineers and Architects may also adopt the examinations and grading procedures of the National Council of Architectural Registration Boards and the accreditation decisions of the National Architectural Accreditation Board. The Board of Engineers and Architects shall issue a certificate of licensure to each applicant who is found to be of good moral character and who satisfies the requirements set forth in this section. Licensure shall be effective upon issuance.

(2) Persons applying for initial licensure who do not hold a degree in architecture accredited by the National Architectural Accreditation Board shall submit an application accompanied by the fee established by the Board of Engineers and Architects. The application shall demonstrate satisfactory evidence of twelve years' combined architectural education and architectural work experience, including the equivalent of the Intern Development Program promulgated by the National Council of Architectural Registration Boards. If an applicant is determined by the Board of Engineers and Architects to meet this requirement, the board shall, by means of a written or electronic examination, examine the applicant on technical and professional subjects as prescribed by the board. Starting January 1, 2000, only individuals who have earned a bachelor of science in architectural studies degree with an architecture emphasis prior to December 31, 1999, can be considered under this subsection.

Sec. 49. The provisions of the Engineers and Architects Regulation Act regulating the practice of architecture do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet of above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space;

(2) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage, if the structures are designed to be occupied by no more than twenty persons;

(3) Any public works project with contemplated expenditures for a completed project that do not exceed forty thousand dollars;

(4) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(5) The teaching, including research and service, of architectural subjects in a college or university offering a degree in architecture accredited by the National Architectural Accreditation Board;

(6) The preparation of submissions to architects, building officials, or other regulating authorities by the manufacturer, supplier, or installer of any materials, assemblies, components, or equipment that describe or illustrate the use of such items, the preparation of any details or shop drawings required of the contractor by the terms of the construction documents, or the management of construction contracts by persons customarily engaged in contracting work;

(7) The preparation of technical submissions or the administration of construction contracts by employees of a person or organization lawfully engaged in the practice of architecture if such employees are acting under the direct supervision of an architect;

(8) The offering by an organization of a combination of services involved in the practice of architecture and construction services if:

(a) An architect or person otherwise permitted under subdivision (10) of this section to offer architectural services participates substantially in all material aspects of the offering;

(b) There is written disclosure at the time of the offering that an architect is engaged by and contractually responsible to such organization;

(c) Such organization agrees that the architect will have direct supervision of the work and that such architect's services will not be terminated without the consent of the person engaging the organization; and

(d) The rendering of architectural services by such architect will conform to the act and the rules and regulations;

(9) A public service provider or an organization who employs a design professional from performing professional services for itself;

(10) A nonresident who holds the certification issued by the National Council of Architectural Registration Boards from offering to render the professional services involved in the practice of architecture. The nonresident shall not perform any of the professional services involved in the practice of architecture until licensed as provided in the act. The nonresident shall notify the board in writing that (a) he or she holds a National Council of Architectural Registration Boards certificate and is not currently licensed in Nebraska but will be present in Nebraska for the purpose of offering to render architectural services, (b) he or she will deliver a copy of the notice to every potential client to whom the applicant offers to render architectural services, and (c) he or she promises to apply immediately to the board for licensure if selected as the architect for the project;

(11) The practice of any other certified trade or legally recognized profession;

(12) Financial institutions making disbursements of funds in connection with construction projects;

(13) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Water Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality; and

(14) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance.

Sec. 50. An architect shall not sign or seal technical submissions unless they were prepared by the architect or under his or her direct supervision, except that in the case of the portions of such technical submissions prepared under the direct supervision of another architect employed by the first architect or by his or her firm, he or she may sign and seal those portions of the technical submissions if the architect has reviewed such portions and has coordinated their preparation or integrated them into his or her work. He or she may sign or seal those portions of the technical submissions that are not required by the Engineers and Architects Regulation Act to be prepared by or under the direct supervision of an architect if the architect has reviewed or adapted in whole or in part such submissions and integrated them into his or her work.

Sec. 51. (1) To be eligible for admission to examination to be a professional engineer or engineer-intern, an applicant must be of good moral character and reputation and shall submit five references with his or her application for licensure as a professional engineer or enrollment as an engineer-intern. Three of the references shall be professional engineers having personal knowledge of the applicant's engineering experience or, in the case of an application for enrollment as an engineer-intern, character references.

(2)(a) A person holding a certificate of licensure to engage in the practice of engineering, issued by the proper authority of a state or possession of the United States, the District of Columbia, or any foreign country, based on requirements that do not conflict with the Engineers and Architects Regulation Act and were of a standard not lower than that specified in the applicable licensure law in effect in this state at the time such certificate was issued may, upon application, be licensed as a professional engineer without further examination.

(b) A person holding an active Council Record with the National Council of Examiners for Engineering and Surveying whose qualifications as evidenced by the Council Record meet the requirements of the act may, upon application, be licensed as a professional engineer without further examination.

(c) A graduate of an Accrediting Board for Engineering and Technology accredited engineering curriculum, enrolled as an engineer-intern, and having a specific record of an additional four years or more of progressive experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an eight-hour examination, administered by the board, on the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if the applicant is otherwise qualified. Engineering teaching of advanced subjects and the design of engineering research and projects in a college or university offering an Accrediting Board for Engineering and Technology accredited engineering curriculum of four years or more may be considered as engineering experience. An applicant who does not hold an Accrediting Board for Engineering and Technology accredited engineering degree but who is enrolled as an engineer-intern in this state and has a specific record of an additional six years or more of progressive experience on engineering projects of a grade and a character which indicates to the Board of Engineers and Architects that the applicant may be competent to practice engineering shall be admitted to an eight-hour examination, administered by the board, in the principles and practice of engineering. Upon passing the examination, the applicant shall be granted a certificate of licensure to practice engineering in this state if otherwise qualified.

(3)(a) A graduate of or senior in an Accrediting Board for Engineering and Technology accredited engineering curriculum shall be admitted to an eight-hour examination on the fundamentals of engineering. Upon passing the examination and verification of graduation, the applicant shall be enrolled as an engineer-intern.

(b) An applicant who does not hold an Accrediting Board for Engineering and Technology accredited engineering degree may be admitted to the fundamentals of engineering examination if he or she has six years of engineering work experience or engineering-related education. Upon passing the examination, the applicant shall be enrolled as an engineer-intern. This subdivision terminates on January 1, 2005.

Sec. 52. (1) The board or its agent shall direct the time and place of engineering examinations. The board shall determine the acceptable grade on examinations.

(2) The examination will be given in two sections and may be taken only after the applicant has met the other minimum requirements as described

in section 51 of this act and has been approved by the board for admission to the examination as follows:

(a) The fundamentals of engineering examination consists of an eight-hour test period on the fundamentals of engineering. Passing this examination qualifies the examinee for an engineer-intern enrollment card if all other requirements for certification are met; and

(b) The principles and practice of engineering examination consists of an eight-hour test period on applied engineering. Passing this examination qualifies the examinee for licensure as a professional engineer if all other requirements for certification are met.

(3) A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. In the event of a second failure, the examinee may, at the discretion of the board, be required to appear before the board with evidence of having acquired the necessary additional knowledge to qualify before admission to the examination.

(4) The board may prepare and adopt specifications for the examinations. They shall be published in brochure form and be available to any person interested in being licensed or certified.

Sec. 53. The provisions of the Engineers and Architects Regulation Act regulating the practice of engineering do not apply to the following activities:

(1) The construction, remodeling, alteration, or renovation of a detached single-family through four-family dwelling of less than five thousand square feet above grade finished space. Any detached or attached sheds, storage buildings, and garages incidental to the dwelling are not included in the tabulation of finished space;

(2) The construction, remodeling, alteration, or renovation of farm buildings, including barns, silos, sheds, or housing for farm equipment and machinery, livestock, poultry, or storage and if the structures are designed to be occupied by no more than twenty persons;

(3) Any public works project with contemplated expenditures for the completed project that do not exceed forty thousand dollars;

(4) Any alteration, renovation, or remodeling of a building if the alteration, renovation, or remodeling does not affect architectural or engineering safety features of the building;

(5) The teaching, including research and service, of engineering subjects in a college or university offering an Accrediting Board for Engineering and Technology accredited engineering curriculum of four years or more;

(6) The act does not prevent a public service provider or an organization who employs a design professional from performing professional services for itself;

(7) The practice of any other certified trade or legally recognized profession;

(8) The offer to practice engineering by a person not a resident of and having no established place of business in this state if the person is legally qualified by licensure to practice engineering in his or her own state or country. The person shall make application to the board in writing and after payment of a fee established by the board may be granted a temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to such applicant with respect to any other work not set forth in the permit.

(9) The work of an employee or a subordinate of a person holding a certificate of licensure under the act or an employee of a person practicing lawfully under subdivision (8) of this section if the work is done under the direct supervision of a person holding a certificate of licensure or a person practicing lawfully under such subdivision;

(10) Those services ordinarily performed by subordinates under direct supervision of a professional engineer or those commonly designated as locomotive, stationary, marine operating engineers, power plant operating engineers, or manufacturers who supervise the operation of or operate machinery or equipment or who supervise construction within their own plant;

(11) Financial institutions making disbursements of funds in connection with construction projects;

(12) Earthmoving and related work associated with soil and water conservation practices performed on farmland or any land owned by a political subdivision that is not subject to a permit from the Department of Water Resources or for work related to livestock waste facilities that are not subject to a permit by the Department of Environmental Quality;

(13) The work of employees and agents of a political subdivision or a nonprofit entity organized for the purpose of furnishing electrical service performing, in accordance with other requirements of law, their customary

duties in the administration and enforcement of codes, permit programs, and land-use regulations and their customary duties in utility and public works construction, operation, and maintenance;

(14) Work performed exclusively in the exploration for and development of energy resources and base, precious, and nonprecious minerals, including sand, gravel, and aggregate, which does not have a substantial impact upon public health, safety, and welfare, as determined by the board, or require the submission of reports or documents to public agencies;

(15) The construction of water wells as defined in section 46-1212, the installation of pumps and pumping equipment into water wells, and the decommissioning of water wells, unless such construction, installation, or decommissioning is required by the owner thereof to be designed or supervised by an engineer or unless legal requirements are imposed upon the owner of a water well as a part of a public water supply; and

(16) Work performed in the exploration, development, and production of oil and gas or before the Nebraska Oil and Gas Conservation Commission.

Sec. 54. (1) A professional engineer shall not affix his or her seal or signature to sketches, working drawings, specifications, or other documents developed by others not under his or her direct supervision, except that in the case of the portions of such technical submissions prepared under the direct supervision of another professional engineer employed by the first professional engineer or by his or her firm, he or she may sign and seal those portions of the technical submissions if the professional engineer has reviewed such portions and has coordinated their preparation or integrated them into his or her work. He or she may sign or seal those portions of the technical submissions that are not required by the Engineers and Architects Regulation Act to be prepared by or under the direct supervision of a professional engineer if the professional engineer has reviewed or adapted in whole or in part such submission and integrated them into his or her work.

(2) In the case of a temporary permit issued to a professional engineer of another state, the licensee shall use his or her state of licensure seal and shall affix his or her signature and a copy of the temporary permit to all his or her work.

Sec. 55. The Legislature declares that the Engineers and Architects Regulation Act is necessary for the public convenience and welfare, is remedial in nature, and shall be construed liberally. Nothing in the act shall be construed to establish a statewide building code.

Sec. 56. Section 2-3256, Reissue Revised Statutes of Nebraska, is amended to read:

2-3256. All design or construction by a district of structural works costing more than forty thousand dollars shall be under the supervision of a registered licensed engineer, except as provided in section 81-853 the Engineers and Architects Regulation Act.

Sec. 57. Section 21-2205, Reissue Revised Statutes of Nebraska, is amended to read:

21-2205. A professional corporation shall render only one type of professional service, unless otherwise authorized by section 81-854, and such services as may be ancillary thereto, and shall not engage in any other profession. No corporation organized and incorporated under sections 21-2201 to 21-2222 the Nebraska Professional Corporation Act may render professional services except through its officers, employees, and agents who are duly licensed or otherwise legally authorized to render such professional services within this state. This section ~~PROVIDED~~; this provision shall not be interpreted to include in the term employee, as used in sections 21-2201 to 21-2222 the act, clerks, secretaries, bookkeepers, technicians, and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional services to the public for which a license or other legal authorization is required.

A professional corporation may own real and personal property necessary or appropriate for rendering the type of professional services it was organized to render, and may invest its funds in real estate, mortgages, stocks, bonds, and any other type of investments.

Sec. 58. Section 23-1901, Revised Statutes Supplement, 1996, is amended to read:

23-1901. (1) It shall be the duty of the county surveyor to make or cause to be made all surveys within his or her county that the county surveyor may be called upon to make and record the same.

(2) In all counties having a population of at least fifty thousand inhabitants but less than one hundred fifty thousand inhabitants, the county surveyor shall be ex officio county engineer and shall be either a registered professional engineer as provided in sections 81-839 to 81-856 the Engineers and Architects Regulation Act or a registered land surveyor as provided in

sections 81-8,108 to 81-8,127 or both. In such counties, the office of surveyor shall be full time.

In counties having a population of one hundred fifty thousand inhabitants or more, a county engineer shall be a registered professional engineer as provided in sections 81-839 to 81-856 the act and shall be elected as provided in section 32-526.

(3) The county engineer or ex officio county engineer shall:

(a) Prepare all plans, specifications, and detail drawings for the use of the county in advertising and letting all contracts for the building and repair of bridges, culverts, and all public improvements upon the roads;

(b) Make estimates of the cost of all such contemplated public improvements, make estimates of all material required for such public improvements, inspect the material and have the same measured and ascertained, and report to the county board whether the same is in accordance with its requirements;

(c) Superintend the construction of all such public improvements and inspect and require that the same shall be done according to contract;

(d) Make estimates of the cost of all labor and material which shall be necessary for the construction of all bridges and improvements upon public highways, inspect all of the work and materials placed in any such public improvements, and make a report in writing to the county board with a statement in regard to whether the same comply with the plans, specifications, and detail drawings of the county board prepared for such work or improvements and under which the contract was let; and

(e) Have charge and general supervision of work or improvements authorized by the county board, inspect all materials, direct the work, and make a report of each piece of work to the county board.

The county engineer or surveyor shall also have such other and further powers as are necessarily incident to the general powers granted.

(4) The county surveyor shall prepare and file the required annual inventory statement of county personal property in his or her custody or possession as provided in sections 23-346 to 23-350.

(5) In counties having a population of one hundred fifty thousand inhabitants or more, the county engineer shall appoint a full-time county surveyor. The county surveyor shall perform all the duties prescribed in sections 23-1901 to 23-1913 and any other duties assigned to him or her by the county engineer. The county surveyor shall be a registered land surveyor as provided in sections 81-8,108 to 81-8,127.

Sec. 59. Section 33-150, Revised Statutes Supplement, 1996, is amended to read:

33-150. The State Treasurer shall credit to the General Fund a percentage of all fees remitted to the state treasury by the state boards of examiners in medicine and surgery, chiropractic, respiratory care, dentistry, including fees from dental hygiene, medical nutrition therapy, athletic training, massage therapy, optometry, pharmacy, funeral directing and embalming, including fees received from funeral establishments and branch establishments, as defined in section 71-1301, as well as funeral directors and embalmers, podiatry, veterinary medicine, and mental health practice, the Board of Occupational Therapy Practice, the Board of Cosmetology Examiners, the Board of Barber Examiners, the Board of Nursing, the State Real Estate Commission, the Board of Examiners for Professional Engineers and Architects, the State Athletic Commissioner, the Nebraska Oil and Gas Conservation Commission pursuant to sections 57-906 and 57-911, and any other state board, bureau, division, fund, or commission not mentioned in this section, if and when the percentage of all such fees remitted is appropriated or reappropriated to the General Fund by the Legislature for the uses and purposes of the General Fund during any biennium. The amount credited in any fiscal year for any such board, bureau, division, fund, or commission shall not exceed the amount credited in fiscal year 1994-95 for the board, bureau, division, fund, or commission. Until July 1, 1997, the percentage shall be fifteen percent, from July 1, 1997, through June 30, 1998, the percentage shall be ten percent, and from July 1, 1998, through June 30, 1999, the percentage shall be five percent. After June 30, 1999, the State Treasurer shall not credit any amount from the fees.

Nothing in this section shall be construed to apply to the fees inuring to the Nebraska Brand Inspection and Theft Prevention Fund and the Licensee Assistance Cash Fund and funds of the State Racing Commission.

Sec. 60. Section 39-1603, Reissue Revised Statutes of Nebraska, is amended to read:

39-1603. Upon the filing of such petition in the office of the county board wherein the greater portion of the area of the proposed district is located, such county board shall engage the registered professional

engineers, who have furnished engineering to the resident petitioners, who shall prepare an estimate of the cost of paving or improving certain road or roads within the district and file such estimate with the county board.

Sec. 61. Section 39-2306, Reissue Revised Statutes of Nebraska, is amended to read:

39-2306. (1) Any person desiring to be licensed under the provisions of sections 39-2301 to 39-2311 shall make application therefor to the board of examiners upon forms prescribed and furnished by the board. Such application shall, except as provided in subsection (2) of this section, be accompanied by an examination fee of twenty-five dollars.

(2) Any registered professional engineer who has been designated as a highway superintendent for one or more counties, or as a street superintendent for one or more municipalities, whether on a full-time basis or on less than a full-time basis as a consultant on construction, shall be entitled to a license under the provisions of sections 39-2301 to 39-2310 without examination upon submitting application therefor and payment of an initial fee of fifteen dollars.

Sec. 62. Section 43-245, Revised Statutes Supplement, 1996, is amended to read:

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

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

(2) Cost or costs means (a) the sum or equivalent expended, paid, or charged for goods or services, or expenses incurred, or (b) the contracted or negotiated price; Parent shall mean one or both parents or a stepparent when such stepparent is married to the custodial parent as of the filing of the petition;

(2) Parties shall mean the juvenile as described in section 43-247 and his or her parent, guardian, or custodian;

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

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

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

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

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

(4) (8) Traffic offense shall mean means any nonfelonious act in violation of a law or ordinance regulating vehicular or pedestrian travel, whether designated a misdemeanor or a traffic infraction;

(5) Juvenile shall mean any person under the age of eighteen;

(6) Age of majority shall mean nineteen years of age; and

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

Sec. 63. Section 43-247, Revised Statutes Supplement, 1996, is amended to read:

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

individual from its jurisdiction.

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

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

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

(3) Any juvenile (a) who is homeless or destitute, or without proper support through no fault of his or her parent, guardian, or custodian; who is abandoned by his or her parent, guardian, or custodian; who lacks proper parental care by reason of the fault or habits of his or her parent, guardian, or custodian; whose parent, guardian, or custodian neglects or refuses to provide proper or necessary subsistence, education, or other care necessary for the health, morals, or well-being of such juvenile; whose parent, guardian, or custodian is unable to provide or neglects or refuses to provide special care made necessary by the mental condition of the juvenile; or who is in a situation or engages in an occupation dangerous to life or limb or injurious to the health or morals of such juvenile, or (b) who, by reason of being wayward or habitually disobedient, is uncontrolled by his or her parent, guardian, or custodian; who departs himself or herself so as to injure or endanger seriously the morals or health of himself, herself, or others; or who is habitually truant from home or school, or (c) who is mentally ill and dangerous as defined in section 83-1009;

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

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

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

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

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

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

Sec. 64. Section 43-248, Reissue Revised Statutes of Nebraska, is amended to read:

43-248. A juvenile may be taken into temporary custody by any peace officer ~~of the peace~~ without a warrant or order of the court ~~when:~~

(1) ~~when in the presence of the officer the A juvenile has violated a state law or municipal ordinance in the presence of the officer;~~ ~~;~~

(2) ~~when a A felony has been committed and the officer has reasonable grounds to believe such juvenile committed it;~~ ~~;~~

(3) ~~when such A juvenile is seriously endangered in his or her surroundings and immediate removal appears to be necessary for the juvenile's protection;~~ ~~;~~ ~~or~~

(4) ~~The officer believes the juvenile to be mentally ill and dangerous as defined in section 83-1009 and that the harm described in that section is likely to occur before proceedings may be instituted before the juvenile court;~~ ~~or~~

(5) ~~There when there are reasonable grounds to believe that he or she the juvenile has run away from his or her parent, guardian, or custodian.~~

Sec. 65. Section 43-250, Revised Statutes Supplement, 1996, is amended to read:

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

(1) The officer shall release such juvenile;

(2) The officer shall prepare in triplicate a written notice requiring the juvenile to appear before the juvenile court or probation officer of the county in which such juvenile was taken into custody at a time and place specified in the notice or at the call of the court. The notice shall also contain a concise statement of the reasons such juvenile was taken into custody. The officer shall deliver one copy of the notice to such juvenile and require such juvenile or his or her parent, guardian, other custodian, or relative, or both, to sign a written promise that such signer will appear at the time and place designated in the notice. Upon the



execution of the promise to appear, the officer shall immediately release such juvenile. The officer shall, as soon as practicable, file one copy of the notice with the county attorney and, when required by the juvenile court, also file a copy of the notice with the juvenile court, the officer appointed by the court for such purpose, or the probation officer;

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

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

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

In determining which disposition of the juvenile he or she will make the appropriate temporary placement of a juvenile under this section, the officer shall prefer the alternative which least restricts the juvenile's freedom of movement if such alternative select the placement which is least restrictive of the juvenile's freedom so long as such placement is compatible with the best interests of the juvenile and the safety of the community.

Sec. 66. Section 43-251, Reissue Revised Statutes of Nebraska, is amended to read:

43-251. (1) When a juvenile is taken into custody pursuant to sections 43-248 and 43-250, the court or magistrate may take any action for preadjudication placement or detention prescribed in the Nebraska Juvenile Code and, if such juvenile is age thirteen years or under and if the court or magistrate shall place such juvenile in the care of the sheriff, police officer, probation officer, or other suitable person, such person shall keep the juvenile in a suitable place outside the enclosure of any jail or police station.

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

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

Sec. 67. (1) Any time a juvenile is temporarily placed at a mental health facility pursuant to subdivision (5) of section 43-250 or by a court as a juvenile who is mentally ill and dangerous, a mental health professional as defined in section 83-1010 shall evaluate the mental condition of the juvenile as soon as reasonably possible but not later than thirty-six hours after the

juvenile's admission, unless the juvenile was evaluated by a mental health professional immediately prior to the juvenile being placed in temporary custody and the temporary custody is based upon the conclusions of that evaluation. The mental health professional who performed the evaluation prior to the temporary custody or immediately after the temporary custody shall, without delay, convey the results of his or her evaluation to the county attorney.

(2) If it is the judgment of the mental health professional that the juvenile is not mentally ill and dangerous or that the harm described in section 83-1009 is not likely to occur before the matter may be heard by a juvenile court, the mental health professional shall immediately notify the county attorney of that conclusion and the county attorney shall either proceed to hearing before the court within twenty-four hours or order the immediate release of the juvenile from temporary custody. Such release shall not prevent the county attorney from proceeding on the petition if he or she so chooses.

(3) A juvenile taken into temporary protective custody under subdivision (5) of section 43-250 shall have the opportunity to proceed to adjudication hearing within seven days unless the matter is continued. Continuances shall be liberally granted at the request of the juvenile, his or her guardian ad litem, attorney, parents, or guardian. Continuances may be granted to permit the juvenile an opportunity to obtain voluntary treatment.

Sec. 68. Section 43-272.01, Revised Statutes Supplement, 1996, is amended to read:

43-272.01.

(1) A guardian ad litem as provided for in subsections (2) and (3) of section 43-272 shall be appointed when a child is removed from his or her surroundings pursuant to subdivision (3) or (4) of section 43-248, subdivision (4) of section 43-250, or section 43-251. If removal has not occurred, a guardian ad litem shall be appointed at the commencement of all cases brought under subdivision (3)(a) or (8) of section 43-247 and section 28-707.

(2) In the course of discharging duties as guardian ad litem, the person so appointed shall consider, but not be limited to, the criteria provided in this subsection. The guardian ad litem:

(a) Is appointed to stand in lieu of a parent for a protected juvenile who is the subject of a juvenile court petition, shall be present at all hearings before the court in such matter unless expressly excused by the court, and may enter into such stipulations and agreements concerning adjudication and disposition deemed by him or her to be in the juvenile's best interests;

(b) Is not appointed to defend the parents or other custodian of the protected juvenile but shall defend the legal and social interests of such juvenile. Social interests shall be defined generally as the usual and reasonable expectations of society for the appropriate parental custody and protection and quality of life for juveniles without regard to the socioeconomic status of the parents or other custodians of the juvenile;

(c) May at any time after the filing of the petition move the court of jurisdiction to provide medical or psychological treatment or evaluation as set out in section 43-258. The guardian ad litem shall have access to all reports resulting from any examination ordered under section 43-258, and such reports shall be used for evaluating the status of the protected juvenile;

(d) Shall make every reasonable effort to become familiar with the needs of the protected juvenile which (i) shall include consultation with the juvenile within two weeks after the appointment and once every six months thereafter and inquiry of the most current caseworker, foster parent, or other custodian and (ii) may include inquiry of others directly involved with the juvenile or who may have information or knowledge about the circumstances which brought the juvenile court action or related cases and the development of the juvenile, including biological parents, physicians, psychologists, teachers, and clergy members;

(e) May present evidence and witnesses and cross-examine witnesses at all evidentiary hearings;

(f) Shall be responsible for making recommendations to the court regarding the temporary and permanent placement of the protected juvenile and shall submit a written report to the court at every dispositional or review hearing, or in the alternative, the court may provide the guardian ad litem with a checklist that shall be completed and presented to the court at every dispositional or review hearing;

(g) Shall consider such other information as is warranted by the nature and circumstances of a particular case; and

(h) May file a petition in the juvenile court on behalf of the juvenile, including a supplemental petition as provided in section 43-291.

(3) Nothing in this section shall operate to limit the discretion of the juvenile court in protecting the best interests of a juvenile who is the subject of a juvenile court petition.

(4) For purposes of subdivision (2)(d) of this section, the court may order the expense of such consultation, if any, to be paid by the county in which the juvenile court action is brought or the court may, after notice and hearing, assess the cost of such consultation, if any, in whole or in part to the parents of the juvenile. The ability of the parents to pay and the amount of the payment shall be determined by the court by appropriate examination.

Sec. 69. Section 43-277, Reissue Revised Statutes of Nebraska, is amended to read:

43-277. Unless Except as provided in sections 67 and 70 of this act and unless sooner released, a juvenile taken into custody or remaining in custody under sections 43-248, 43-250, 43-253, and 43-254 shall be brought before the juvenile court for an adjudication hearing as soon as possible but, in all cases, within a six-month period after a petition is filed. If the juvenile is not brought before the juvenile court within such period of time, he or she shall be released from custody, except that such hearing shall not be had until there is before the court the juvenile when charged under subdivision (1), (2), (3)(b), or (4) of section 43-247, and in all cases the juvenile's custodian or person with whom he or she may be, or his or her parent or guardian, or, if they fail to appear, and in all cases under subdivision (3)(a) of section 43-247, a guardian ad litem. The computation of the six-month period provided for in this section shall be made as provided in section 29-1207, as applicable.

Sec. 70. All hearings concerning a juvenile court petition filed pursuant to subdivision (3)(c) of section 43-247 shall be closed to the public except at the request of the juvenile or the juvenile's parent or guardian. Such hearings shall be held in a courtroom or at any convenient and suitable place designated by the juvenile court judge. The proceeding may be conducted where the juvenile is currently residing if the juvenile is unable to travel.

Sec. 71. Section 43-278, Reissue Revised Statutes of Nebraska, is amended to read:

43-278. All Except as provided in sections 67 and 70 of this act, all cases filed under subdivision (3) of section 43-247 shall have an adjudication hearing not more than ninety days after a petition is filed. Upon a showing of good cause, the court may continue the case beyond the ninety-day period. The court shall also review every case filed under such subdivision which has been adjudicated or transferred to it for disposition not less than once every six months. All communications, notices, orders, authorizations, and requests authorized or required in the Nebraska Juvenile Code, with the exception of any adjudication hearing, disposition hearing, or hearing to terminate parental rights, may be made by telephone when other means of communication are impractical as determined by the court. All of the orders generated by way of a telephonic hearing shall be recorded as if the judge were conducting a hearing on the record. Telephonic hearings allowed under this section shall not be in conflict with section 24-734.

Sec. 72. Section 43-284, Revised Statutes Supplement, 1996, is amended to read:

43-284. When any juvenile is adjudged to be under subdivision (3) or (4) of section 43-247, the court may permit such juvenile to remain in his or her own home subject to supervision or may make an order committing the juvenile to the (1) the care of some suitable institution, (2) inpatient or outpatient treatment at a mental health facility or mental health program, (3) the care of some reputable citizen of good moral character, (4) the care of some association willing to receive the juvenile embracing in its objects the purpose of caring for or obtaining homes for such juveniles, which association shall have been accredited as provided in section 43-296, (5) the care of a suitable family, or (6) the care and custody of the Department of Health and Human Services.

Under subdivision (1), (2), (3), or (4), or (5) of this section, upon a determination by the court that there are no parental, private, or other public funds available for the care, custody, education, and maintenance of a juvenile, the court may order a reasonable sum for the care, custody, education, and maintenance of the juvenile to be paid out of a fund which shall be appropriated annually by the county where the petition is filed until suitable provisions may be made for the juvenile without such payment.

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

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

Sec. 73. Section 43-2,108, Reissue Revised Statutes of Nebraska, is amended to read:

43-2,108. (1) The juvenile court judge shall keep a minute book in which he or she shall enter minutes of all proceedings of the court in each case, including appearances, findings, orders, decrees, and judgments, and any evidence which he or she feels it is necessary and proper to record. Juvenile court legal records shall be deposited in files and shall include the petition, summons, notice, certificates or receipts of mailing, minutes of the court, findings, orders, decrees, judgments, and motions.

(2) Except as provided in subsection (3) of this section, the medical, psychological, psychiatric, and social welfare reports and the records of juvenile probation officers as they relate to individual proceedings in the juvenile court shall not be open to inspection, without order of the court. Such records shall be made available to a district court of this state or the District Court of the United States on the order of a judge thereof for the confidential use of such judge or his or her probation officer as to matters pending before such court but shall not be made available to parties or their counsel; and such district court records shall be made available to a county court or separate juvenile court upon request of the county judge or separate juvenile judge for the confidential use of such judge and his or her probation officer as to matters pending before such court, but shall not be made available by such judge to the parties or their counsel.

(3) As used in this subsection, confidential record information shall mean all docket records, other than the pleadings, orders, decrees, and judgments; case files and records; reports and records of probation officers; and information supplied to the court of jurisdiction in such cases by any individual or any public or private institution, agency, facility, or clinic, which is compiled by, produced by, and in the possession of any court. In all cases under subdivision (3)(a) of section 43-247, access to all confidential record information in such cases shall be granted only as follows: (a) The court of jurisdiction may, subject to applicable federal and state regulations, disseminate such confidential record information to any individual, or public or private agency, institution, facility, or clinic which is providing services directly to the juvenile and such juvenile's parents or guardian and his or her immediate family who are the subject of such record information; (b) the court of jurisdiction may disseminate such confidential record information, with the consent of persons who are subjects of such information, or by order of such court after showing of good cause, to any law enforcement agency upon such agency's specific request for such agency's exclusive use in the investigation of any protective service case or investigation of allegations under subdivision (3)(a) of section 43-247, regarding the juvenile or such juvenile's immediate family, who are the subject of such investigation; and (c) the court of jurisdiction may disseminate such confidential record information to any court, which has jurisdiction of the juvenile who is the subject of such information upon such court's request.

(4) Nothing in subsection (3) of this section shall be construed to restrict the dissemination of confidential record information between any individual or public or private agency, institute, facility, or clinic, except any such confidential record information disseminated by the court of jurisdiction pursuant to this section shall be for the exclusive and private use of those to whom it was released and shall not be disseminated further without order of such court.

(5)(a) Any records concerning a juvenile court petition filed pursuant to subdivision (3)(c) of section 43-247 shall remain confidential except as may be provided otherwise by law. Such records shall be accessible to (i) the juvenile except as provided in subdivision (b) of this subsection, (ii) the juvenile's counsel, (iii) the juvenile's parent or guardian, and (iv) persons authorized by an order of a judge or court.

(b) Upon application by the county attorney or by the director of the facility where the juvenile is placed and upon a showing of good cause therefor, a judge of the juvenile court having jurisdiction over the juvenile or of the county where the facility is located may order that the records shall not be made available to the juvenile if, in the judgment of the court, the availability of such records to the juvenile will adversely affect the

juvenile's mental state and the treatment thereof.

Sec. 74. Section 43-2,129, Revised Statutes Supplement, 1996, is amended to read:

43-2,129. Sections 43-245 to 43-2,129 and sections 67 and 70 of this act shall be known and may be cited as the Nebraska Juvenile Code.

Sec. 75. Section 46-701, Reissue Revised Statutes of Nebraska, is amended to read:

46-701. The Director of Water Resources shall be qualified by training and business experience to manage and supervise the department. He or she shall be a professional engineer as provided in the Engineers and Architects Regulation Act as defined in section 81-840, and have had at least five years' experience in a position of responsibility in irrigation work.

Sec. 76. Section 48-224, Reissue Revised Statutes of Nebraska, is amended to read:

48-224. (1) Any employee of the State of Nebraska, any municipal corporation, or any public body or agency created by the laws of this state, who desires to participate voluntarily in any employee organization, credit union, or any community charity or public welfare plan approved by the Governor and the Director of Administrative Services, in the case of employees of the State of Nebraska, or by the duly elected governing body of such municipal corporation or other public body or agency, may execute an order authorizing the withholding from any wages or salary paid to such employee of a sum each month or pay period and the same to be paid to the designated recipient thereof. For purposes of this section, community charity includes any not-for-profit federation of health and human services agencies and associations.

(2) If a not-for-profit federation of health and human services agencies and associations is authorized pursuant to subsection (1) of this section, approval to similar not-for-profit federations shall also be granted on a similar equitable basis. For purposes of this subsection, a similar not-for-profit federation shall meet the following requirements:

(a) The federation has had an established office in the state for at least the last five years;

(b) The federation represents at least ten Nebraska-based health and human services agencies and associations in addition to the federation;

(c) The federation is a Nebraska corporation in good standing which holds a valid 501(c)(3) designation by the Internal Revenue Code;

(d) The federation and its agencies have an active, voluntary board which exercises administrative control over the federation and holds regular meetings; and

(e) The federation has a program focus and service delivery which is organized on either a statewide or regional basis.

Sec. 77. Section 71-101, Reissue Revised Statutes of Nebraska, is amended to read:

71-101. Sections 71-101 to 71-1,107.30, 71-1,133 to 71-1,338, 71-1301 to 71-1354, and 71-2801 to 71-2822 and section 78 of this 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 of examiners or board shall mean one of the boards appointed by the State Board of Health;

(2) Licensed, when applied to any licensee in any of the professions named in section 71-102, shall mean a person licensed under the Uniform Licensing Law;

(3) Profession or health profession shall mean and refer to any of the several groups named in section 71-102;

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

(5) Whenever a particular gender is used, it shall be construed to include both the masculine and the feminine, and the singular number shall include the plural when consistent with the intent of the Uniform Licensing Law;

(6) License, licensing, or licensure shall mean permission to engage in a health profession which would otherwise be unlawful in this state in the absence of such permission and which is granted to individuals who meet prerequisite qualifications and allows them to perform prescribed health professional tasks and use a particular title;

(7) Certificate, certify, or certification, with respect to professions, shall mean a voluntary process by which a statutory, regulatory entity grants recognition to an individual who has met certain prerequisite qualifications specified by such regulatory entity and who may assume or use the word certified in the title or designation to perform prescribed health

professional tasks. When appropriate, certificate shall also mean a document issued by the department which designates particular credentials for an individual; and

(8) Lapse shall mean the termination of the right or privilege to represent oneself as a licensed, certified, or registered person and to practice the profession when a license, certificate, or registration is required to do so.

Sec. 78. If a chief medical officer is appointed pursuant to section 81-3201, he or she shall perform the duties of the Director of Regulation and Licensure for decisions in contested cases under sections 71-150, 71-153, 71-154, 71-155, 71-156, 71-161.02, 71-161.03, 71-161.07, 71-161.11, 71-161.12 to 71-161.15, 71-161.17, 71-161.18, 71-161.20, 71-1.104, 71-1.142, 71-1.147.08, 71-1.147.10, 71-1.147.31, 71-1.147.44, 71-1.147.45, 71-1.147.48, 71-1.147.53, 71-1.147.59, and 71-1.232.

Sec. 79. Section 71-147, Reissue Revised Statutes of Nebraska, is amended to read:

71-147. A license, certificate, or registration to practice a profession may be denied, refused renewal, limited, revoked, or suspended or have other disciplinary measures taken against it in accordance with section 71-155 when the applicant, licensee, certificate holder, or registrant is guilty of any of the following acts or offenses:

(1) Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license, certificate, or registration;

(2) Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;

(3) Habitual intoxication or active dependency on or addiction to the use of alcohol or habituation or active dependency on or addiction to the use of any kind of controlled substance or narcotic drug or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to section 71-172.01;

(4) Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, certificate holder's, or registrant's fitness or capacity to practice the profession;

(5) Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct shall mean a continued course of negligent conduct in performing the duties of the profession;

(6) Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;

(7) Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means;

(8) Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so;

(9) Having had his or her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked or having had such license, certificate, or registration disciplined in any other manner in accordance with section 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, certificate holder, or registrant 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, certificate, or registration or the taking of other disciplinary measures against it by another state or jurisdiction shall be conclusive evidence;

(10) Unprofessional conduct;

(11) Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims, concerning such licensee's, certificate holder's, or registrant's professional excellence or abilities, in advertisements;

(12) Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;

(13) Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;

(14) Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the department relating to the licensee's, certificate holder's, or registrant's profession, sanitation, quarantine, or

school inspection;

(15) Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee, certificate holder, or registrant is not licensed, certified, or registered to practice;

(16) Failure to comply with sections 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates;

(17) Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;

(18) Purchasing or receiving any prescription drug from any source in violation of the Wholesale Drug Distributor Licensing Act;

(19) Violation of the Emergency Box Drug Act; or

(20) Failure to file a report required by section 71-168;

(21) Failure to disclose the information required by section 81 of this act; or

(22) Failure to disclose the information required by section 82 of this act.

A license, certificate, or registration to practice a profession may also be refused renewal or revoked when the licensee, certificate holder, or registrant is guilty of practicing such profession while his or her license, certificate, or registration to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his or her license, certificate, or registration.

This section shall not apply to revocation for nonrenewal as set out in section 71-110, subsection (1) of section 71-149, and section 71-161.10.

Sec. 80. Section 71-162, Reissue Revised Statutes of Nebraska, is amended to read:

71-162. (1) The following fees shall be collected by the department and remitted to the State Treasurer:

(a) Not less than fifty dollars and not more than three hundred dollars for a license issued on the basis of an examination given by the department or organization specified by the department or for a license issued by reciprocity to practice audiology, athletic training, chiropractic, dental hygiene, dentistry, funeral directing and embalming, massage therapy, optometry, pharmacy, physical therapy, podiatry, respiratory care, speech-language pathology, veterinary medicine, or mental health practice, except that the fee for a provisional mental health practitioner license is as prescribed in subdivision (i) of this subsection;

(b) Not less than one hundred dollars and not more than six hundred dollars for a license issued on the basis of examination or by reciprocity to practice psychology;

(c) Not less than three hundred dollars and not more than seven hundred seventy-five dollars for a license issued on the basis of examination given by the department or organization specified by the department to practice medicine and surgery or osteopathic medicine, and not less than two hundred dollars and not more than five hundred dollars for a license issued by reciprocity to practice medicine and surgery or osteopathic medicine;

(d) For issuance or renewal of a certificate as a certified professional counselor or for certification by reciprocity, not less than twenty-five dollars and not more than five hundred dollars;

(e) For issuance or renewal of a certificate as a certified social worker or a certified master social worker, for issuance of a provisional certification as a master social worker, or for certification by reciprocity, not less than twenty-five dollars and not more than five hundred dollars;

(f) For issuance or renewal of a certificate as a certified marriage and family therapist or for certification by reciprocity, not less than twenty-five dollars and not more than five hundred dollars;

(g)(i) For a license to operate a massage therapy school, not less than one hundred dollars and not more than three hundred dollars, and for renewal of a license, not less than one hundred dollars and not more than four hundred dollars, and (ii) for a license to operate a massage therapy establishment, not less than one hundred dollars and not more than three hundred dollars, and for renewal of a license, not less than one hundred dollars and not more than four hundred dollars;

(h) For a license as a licensed medical nutrition therapist, not less than fifty dollars and not more than three hundred dollars. The fee for renewal of a license as a licensed medical nutrition therapist shall be not less than twenty dollars and not more than five hundred dollars. The fee for licensure by reciprocity shall be not less than fifty dollars and not more than three hundred dollars;

(i) For issuance of a provisional mental health practitioner license, not less than twenty-five dollars and not more than one hundred dollars;

(j) For the biennial renewal of a license to practice medicine and surgery, osteopathic medicine, psychology, or any of the professions enumerated in subdivision (a) of this subsection, not less than twenty dollars and not more than five hundred dollars;

(k) For a certified statement that a licensee, certificate holder, or registrant is licensed, certified, or registered in this state, twenty-five dollars, and for verification that a licensee, certificate holder, or registrant is licensed, certified, or registered in this state, five dollars; and

(l) For a duplicate original or reissued license, certificate, or registration, ten dollars.

All money paid as licensure, certification, registration, and renewal fees shall be kept in a separate fund to be used for the benefit of the profession so paying such fees.

(2) The department, upon the recommendation of the appropriate board of examiners, shall adopt and promulgate rules and regulations to specify the fee to be charged for the cost of the licensure or certification examination, for licensure or certification, and for licensure or certification renewal in each profession enumerated in subsection (1) of this section. The fee for the licensure or certification examination shall not exceed the cost of such examination.

Sec. 81. (1) A person who needs to obtain the required three thousand hours of supervised experience in mental health practice as specified in section 71-1,314 to qualify for a mental health practitioner license shall obtain a provisional mental health practitioner license. To qualify for a provisional mental health practitioner license, such person shall:

(a) Have a master's or doctorate degree that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program as specified in such section;

(b)(i) Apply within sixty days after the operative date of this section, if the three thousand hours of supervised experience were being earned on the operative date of this section; or

(ii) Apply at any time following the operative date of this section but prior to earning the three thousand hours of supervised experience, if such experience was not being earned on the operative date of this section; and

(c) Pay the provisional mental health practitioner license fee specified in section 71-162.

(2) A provisional mental health practitioner license shall expire upon receipt of licensure as a mental health practitioner or five years after the date of issuance, whichever comes first.

(3) A person who holds a provisional mental health practitioner license shall inform all clients that he or she holds a provisional license and is practicing mental health under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set forth in section 71-147.

Sec. 82. (1) A person who needs to obtain the required three thousand hours of supervised experience in social work as specified in section 71-1,319 to qualify for certification as a master social worker shall obtain a provisional certification as a master social worker. To qualify for a provisional certification as a master social worker, such person shall:

(a) Have a doctorate or master's degree in social work from an approved educational program;

(b)(i) Apply within sixty days after the operative date of this section, if the three thousand hours of supervised experience were being earned on the operative date of this section; or

(ii) Apply at any time after the operative date of this section but prior to earning the three thousand hours of supervised experience, if such experience was not being earned on the operative date of this section; and

(c) Pay the provisional certified master social worker fee specified in section 71-162.

(2) A provisional master social worker certification shall expire upon receipt of certification as a master social worker or five years after the date of issuance, whichever comes first.

(3) A person who holds a provisional certification as a master social worker shall inform all clients that he or she holds a provisional certification and is practicing social work under supervision and shall identify the supervisor. Failure to make such disclosure is a ground for discipline as set for in section 71-147.

Sec. 83. Section 71-1,235, Reissue Revised Statutes of Nebraska, is amended to read:



71-1,235. Sections 71-1,227 to 71-1,237 shall not prohibit:

(1) The practice of respiratory care which is an integral part of the program of study by students enrolled in approved respiratory care education programs;

(2) The gratuitous care, including the practice of respiratory care, of the ill by a friend or member of the family or by a person who is not licensed to practice respiratory care if such person does not represent himself or herself as a respiratory care practitioner;

(3) The practice of respiratory care by nurses, physicians, physician assistants, physical therapists, or any other professional licensed under the Uniform Licensing Law when such practice is within the scope of practice for which that person is licensed; or

(4) The practice of any respiratory care practitioner of this state or any other state or territory while employed by the federal government or any bureau or division thereof while in the discharge of his or her official duties; or

(5) Techniques defined as pulmonary function testing and the administration of aerosol and inhalant medications to the cardiorespiratory system as it relates to pulmonary function technology administered by a registered pulmonary function technologist credentialed by the National Board for Respiratory Care or a certified pulmonary function technologist credentialed by the National Board for Respiratory Care.

Sec. 84. Section 71-1,314, Reissue Revised Statutes of Nebraska, is amended to read:

71-1,314. (1) On and after September 1, 1994, no person shall hold himself or herself out as a mental health practitioner unless he or she is licensed as such by the department. A person shall be qualified to be a licensed mental health practitioner if he or she:

(a) Has received a master's or doctorate degree that consists of course work and training which was primarily therapeutic mental health in content and included a practicum or internship and was from an approved educational program. Practicums or internships completed after September 1, 1995, must include a minimum of three hundred clock hours of direct client contact under the supervision of a qualified physician, a licensed psychologist, or a licensed mental health practitioner;

(b) Has successfully completed three thousand hours of supervised experience in mental health practice of which fifteen hundred hours were in direct client contact in a setting where mental health services were being offered and the remaining fifteen hundred hours included, but were not limited to, review of client records, case conferences, direct observation, and video observation. For purposes of this subdivision, supervised shall mean monitored by a qualified physician, a licensed clinical psychologist, or a certified master social worker, certified professional counselor, or marriage and family therapist qualified for certification on September 1, 1994, for any hours completed before such date or by a qualified physician, a psychologist licensed to engage in the practice of psychology, or a licensed mental health practitioner for any hours completed after such date, including evaluative face-to-face contact for a minimum of one hour per week. Such three thousand hours shall be accumulated after completion of the master's or doctorate degree and during the five years immediately preceding the application for licensure; and

(c) Has satisfactorily passed an examination approved by the board. An individual who by reason of educational background is eligible for certification as a certified master social worker, a certified professional counselor, or a certified marriage and family therapist shall take and pass a certification examination approved by the board before becoming licensed as a mental health practitioner.

(2) For a period of one year following September 1, 1994:

(a) An individual who is certified on September 1, 1994, as a certified master social worker or certified professional counselor can be licensed as a mental health practitioner by making application to the department and paying the licensure fee;

(b) An individual who has a mental health-related master's degree, as determined by the board, and five years experience providing mental health services may, upon successful completion of the examination for licensure as a mental health practitioner, be licensed as a mental health practitioner; and

(c) An individual who obtains certification as a marriage and family therapist by September 1, 1995, can be licensed as a mental health practitioner by making application to the department and paying the licensure fee.

(3) An individual who, within one year after the operative date of this section, demonstrates to the board that he or she was certified as a

master social worker or professional counselor shall be licensed as a mental health practitioner by making application to the department and paying the licensure fee.

Sec. 85. Section 71-201, Reissue Revised Statutes of Nebraska, is amended to read:

71-201. No person shall practice or attempt to practice barbering without a license issued pursuant to the Barber Act by the board. It shall be unlawful to operate a barber shop unless it is at all times under the direct supervision and management of a licensed barber.

No person, partnership, limited liability company, or corporation shall operate a barber shop or barber school until a license has been obtained for that purpose from the board. All barber shop licenses shall be issued on or before June 30, shall be effective as of July 1 of each year, shall be good for one year, and shall expire on the succeeding June 30.

Any barber shop which fails to renew its license on or before the expiration date may renew such license by payment of the renewal fee and a late renewal fee established by the board within sixty days after such date or such other time period as the board establishes.

Any barber shop or barber school license may be suspended, revoked, or denied renewal by the board for violation of any provision of the statutes or any rule or regulation of the board pertaining to the operation or sanitation of barber shops or barber schools or any rule or regulation of the Department of Health and Human Services Regulation and Licensure pertaining to sanitation; after due notice and hearing before the board.

Sec. 86. Section 71-203, Reissue Revised Statutes of Nebraska, is amended to read:

71-203. The following persons are exempt from the provisions of Chapter 71, article 2, Barber Act while in the proper discharge of their professional or occupational duties: (1) Persons authorized by the laws of this state to practice medicine and surgery; (2) commissioned medical or surgical officers of the United States military services; (3) registered or licensed practical nurses; and (4) persons engaged in operating or employed in cosmetology salons, except that nothing contained in this section shall authorize a cosmetologist to perform barbering as defined in section 71-202 in any licensed barber shop.

Sec. 87. Section 71-208, Reissue Revised Statutes of Nebraska, is amended to read:

71-208. No school or college of barbering shall be approved by the ~~board~~ Board of Barber Examiners unless (1) as a prerequisite to graduation it requires, as a prerequisite to graduation, graduation from high school or its equivalent as determined by an examination conducted by the county superintendent of schools or successfully passing a general educational development test, and unless (2) as a prerequisite to graduation it requires as a prerequisite to graduation a course of instruction of not less than two thousand one hundred hours, to be completed in a period of not less than one year, of not more than ten hours in any one working day, and unless that (3) the school meets the standards of the Barber Act and any this section and sections 71-162, 71-201, 71-203 to 71-207.02, 71-208.02 to 71-208.04, 71-209 to 71-211, 71-212, 71-215, 71-216, 71-217 to 71-219, 71-221 to 71-223.02, and 71-235 and such standards as are herewith authorized to be set up by rules and regulations of the board. Such course of instruction shall include scientific fundamentals for barbering, hygiene, massaging, sterilization, haircutting, and shaving, except that when ~~PROVIDED, that~~ where a school or college of barbering is a part of a high school accredited by the State Board of Education or the University of Nebraska, the Board of Barber Examiners shall provide in its rules and regulations that credit in the school of barbering shall be given for hours spent and courses pursued in the high school, and the board shall also provide that credit shall be given for courses in barbering taken in such high school prior to formal enrollment in such school of barbering.

Sec. 88. Section 71-211.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-211.01. All licensees provided for in Chapter 71, article 2, the Barber Act whose valid licenses have expired while serving in the armed forces of the United States may have such licenses reinstated without further examination upon their return from the armed forces, upon and payment of the necessary fees, if ~~PROVIDED, that~~ the request for reinstatement was made to the ~~board~~ Board of Barber Examiners within ninety days from and after discharge from the armed forces. Any licensee requesting such reinstatement must accompany such request with a photostatic copy of his or her discharge from the armed forces.

Sec. 89. Section 71-212, Reissue Revised Statutes of Nebraska, is

amended to read:

71-212. A person who (1) is of good moral character and temperate habits, (2) ~~and~~ has a diploma showing graduation from high school or its equivalent as determined by an examination conducted by the county superintendent of schools or successfully passing a general educational development test either of which shall be optional with the applicant, and (3) has a license and certificate of registration as a practicing barber from another state or country which has substantially the same requirements for licensing or registering barbers as required by Chapter 71, article 2 ~~the Barber Act~~, shall upon payment of the required fee be given an examination by the board at the next regular examination to determine his or her fitness to receive a certificate of registration to practice barbering. If any person fails to pass a required examination, he or she shall be entitled to submit himself or herself for examination by the ~~board~~ Board of Barber Examiners at the next examination given by the board. If he or she fails at the third examination, no further examination shall be granted. ~~Should~~ If an applicant ~~fails to appear~~ when requested to appear for an examination, ~~fail to appear~~, he or she shall be notified by the board as to the time of the next regular examination, at which he or she shall appear.

Sec. 90. Section 71-217, Reissue Revised Statutes of Nebraska, is amended to read:

71-217. The ~~board~~ Board of Barber Examiners may either refuse to issue or renew, or may suspend or revoke any certificate of registration or approval for any one or a combination of the following causes: (1) Conviction of a felony shown by a certified copy of the record of the court of conviction; (2) gross malpractice or gross incompetency; (3) continued practice by a person knowingly having an infectious or contagious disease; (4) advertising by means of knowingly false or deceptive statements or in violation of section 71-223.02; (5) advertising, practicing, or attempting to practice under a trade name or any name other than one's own; (6) habitual drunkenness or habitual addiction to the use of morphine, cocaine, or other habit-forming drugs; (7) immoral or unprofessional conduct; (8) violation of any of the provisions of sections 71-201 to 71-237 or of any valid regulation promulgated by the ~~board~~ Board of Barber Examiners pertaining to service charges, ~~sanitation~~, and the elimination of unfair practices, ~~or of any valid regulation of the Department of Health and Human Services Regulation and Licensure pertaining to sanitation~~; and (9) any check presented to the board as a fee for either an original license or renewal license or for examination for license or any other fee authorized in sections 71-201 to 71-237 which is returned to the State Treasurer unpaid.

Sec. 91. Section 71-219.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-219.01. Application for ~~the~~ a license to operate a barber school or college shall be made on a form furnished by the ~~Board of Barber Examiners board~~. It shall contain such information relative to ownership, management, instructors, number of students, and other data concerning such business as may be required by the board. The board shall collect, in addition to the annual approval fee, a fee in an amount set by the board for every barber school opened after August 27, 1971. The annual fee for approval of a barber school or college, the fee for reinstatement of a delinquent license, and the fee for the transfer of license or change of ownership of a barber school or college shall be set by the board. No fee shall be collected if the change in ownership is caused by a present license owner incorporating.

Sec. 92. Section 71-219.02, Reissue Revised Statutes of Nebraska, is amended to read:

71-219.02. Application for a license to establish a barber shop ~~or barber school~~ shall be made on a form furnished by the ~~Board of Barber Examiners board~~. It shall contain such information relative to ownership, management, sanitation, and other data concerning such business as may be required by the board. The board shall collect with such application, in addition to the annual license fee paid for that year, a fee to be set by the board. A fee shall be collected for the transfer of license or change of ownership of a barber shop, but no fee shall be collected if the ownership results merely from a present license holder incorporating his or her business. Every barber shop shall be called upon by the state barber inspector at least once each year for the purpose of inspection in order to be eligible for an annual permit to conduct a barber shop, and no license shall be issued unless all deficiencies found by inspection of such shop have been corrected.

Sec. 93. Section 71-219.04, Reissue Revised Statutes of Nebraska, is amended to read:

71-219.04. When it is necessary for an inspector to reinspect a

barber shop or barber school to determine if a violation has been corrected, there shall be a fee assessed to the barber, or barber shop owner, instructor, or barber school owner for the first, second, and third callback inspection. The fees shall be an amount set by the Board of Barber Examiners board.

Sec. 94. Section 71-220.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-220.01. ~~The A violation of any provision of Chapter 71, article 2, the Barber Act by any person shall constitute a nuisance and the Board of Barber Examiners board, acting in the name of the state, shall be authorized to file suit in the district court of the district in which the alleged violation occurred for the purpose of seeking an abatement of such nuisance and for such other relief as the court may deem appropriate to grant. The procedure in the district court shall be the same as the procedure for matters in equity in the district court of Nebraska.~~

Sec. 95. Section 71-223.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-223.01. ~~The board Department of Health and Human Services Regulation and Licensure shall by rules and regulations duly adopted prescribe sanitary requirements for barber shops and barber schools. The board Board of Barber Examiners or its employees shall regularly inspect all barber shops and barber schools in this state to insure compliance with such regulations. A written report of each such inspection made shall be submitted to the barber board. Each school or barber shop shall be called upon at least once each year for the purpose of inspection prior to the issuance of its license to be eligible for annual renewal of certification or registration. A report of any violation of the prescribed sanitary requirements shall be submitted to the Department of Health and Human Services Regulation and Licensure.~~

Sec. 96. Section 71-225, Reissue Revised Statutes of Nebraska, is amended to read:

71-225. ~~The Legislature declares that: (1) The provisions and regulations of Chapter 71, article 2, the Barber Act are enacted in the interest of public health, public safety, and the general welfare; and (2) the skilled trade of barbering and the operation of barber shops is affected with a public interest.~~

Sec. 97. Section 71-227, Reissue Revised Statutes of Nebraska, is amended to read:

71-227. ~~Whenever it shall appear appears to the Board of Barber Examiners board that practices prevail among barbers which tend to impair the health or efficiency of barbers or to endanger the health or safety of their patrons, it shall be the duty of the board shall to investigate and determine whether the such conditions or practices above mentioned; or any of them; prevail, and if found to exist or to be threatened by conditions existing therein If such conditions or practices exist or are at risk of occurring, the board may, by official order, and after due notice and hearing, adopt as provided for herein; make and promulgate such orders; rules and regulations as may be calculated to promote the purposes of Chapter 71, article 2; as herein expressed the Barber Act.~~

Sec. 98. Section 71-232, Reissue Revised Statutes of Nebraska, is amended to read:

71-232. ~~The Board of Barber Examiners board shall adopt and promulgate and enforce all rules, regulations, and orders necessary to carry out the provisions of Chapter 71, article 2 Barber Act.~~

Sec. 99. Section 71-245, Reissue Revised Statutes of Nebraska, is amended to read:

71-245. ~~The provisions of Chapter 71, article 2 the Barber Act, relating to applications, transmittal of the names of eligible candidates, certification of successful applicants, and issuance of licenses thereto, in the case of regular examinations, shall apply applies as far as applicable to applicants for a reciprocal license.~~

Sec. 100. Section 71-1564, Reissue Revised Statutes of Nebraska, is amended to read:

71-1564. ~~The department is hereby charged with the administration of the provisions of the Nebraska Uniform Standards for Modular Housing Units Act. The department may adopt, amend, alter, or repeal general rules and regulations of procedure for carrying out and administering the provisions of such act in regard to (1) the issuance of seals, (2) the submission of plans and specifications of modular housing units, (3) the obtaining of statistical data respecting the manufacture and sale of modular housing units, and (4) the prescribing of means, methods, and practices to make effective such provisions. In adopting such rules and regulations, the department may require that plans and specifications of modular housing units submitted to the department be prepared and submitted only by a Nebraska-registered~~

professional Nebraska architect or professional engineer.

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

Sec. 101. Section 71-1903, Reissue Revised Statutes of Nebraska, is amended to read:

71-1903. (1) Before issuance of a license under sections 71-1901 to 71-1906.02, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the service and the place where the foster care is to be furnished are such as to ensure the proper care and treatment of children. The department may investigate the character of prospective or existing licensees, any member of such licensee's household, and the staff and employees of foster care facilities by making a national criminal history record information check. The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01, payable by the licensee or applicant for a license, except that the department may pay the fee for inspection for fire safety of foster family homes as defined in section 71-1902. The Department of Health and Human Services Regulation and Licensure may request the Department of Health and Human Services Regulation and Licensure to conduct inspect such places to determine if they meet sanitation and health standards set by the department for the care and protection of such children investigations pursuant to subsection (2) of this section. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the Department of Health and Human Services Regulation and Licensure. The Department of Health and Human Services Regulation and Licensure may also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing foster care to see that such service is being properly conducted.

(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, 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 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 may delegate the investigation authority to qualified local environmental health personnel.

Sec. 102. Section 71-1913, Reissue Revised Statutes of Nebraska, is amended to read:

71-1913. (1) The department may request the State Fire Marshal to inspect any program for fire safety pursuant to section 81-502 and may request the Department of Health and Human Services Regulation and Licensure to conduct inspect any program to determine if it meets sanitation and physical well-being standards investigations of the department for the care and protection of the children pursuant to section 71-901 subsection (2) of this section. The authority may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the Department of Health and Human Services Regulation and Licensure. The State Fire Marshal or the Director of Regulation and Licensure shall immediately notify the Department of Health and Human Services Regulation and Licensure whenever he or she delegates authority for such inspections.

(2) The Department of Health and Human Services Regulation and Licensure shall make an investigation within thirty days after receipt of request from the Department of Health and Human Services of all facilities and programs of licensed providers of child care programs as defined in section 71-1910 or applicants for licenses to provide such programs to determine if the place or places to be covered by such licenses meet standards of sanitation and physical well-being set by the Department of Health and Human Services 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 may delegate this authority to qualified local environmental health personnel.

Sec. 103. Section 71-2017.01, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

(6) Long-term care hospital ~~shall mean means~~ any hospital, any distinct part of any hospital, or any portion of a hospital which is primarily devoted to providing the care and services as set forth in subdivisions (10), (11), and (21) of this section;

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

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

(9) Health clinic ~~shall mean means~~ an institution, a facility, a place, a building, or any distinct part of an institution, a facility, a place, or a building, not licensed as a hospital, in which advice, counseling, diagnosis, treatment, surgery, care, or services relating to the preservation or maintenance of health are provided on an outpatient basis and for a period

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

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

(11) Intermediate care facility ~~shall mean~~ means any institution, facility, place, or building in which accommodation and board for a period exceeding twenty-four consecutive hours and also nursing care and related medical services are provided for two or more nonrelated individuals who are ill, injured, or disabled but not in need of hospital or skilled nursing facility care, but who by reason of illness, disease, injury, deformity, disability, convalescence, or physical or mental infirmity require such nursing care and related medical services. An intermediate care facility shall provide at least one licensed registered nurse or licensed practical nurse on duty on the day shift seven days per week and at least one licensed registered nurse, licensed practical nurse, or care staff member on duty on the other two shifts seven days per week. An intermediate care facility shall provide a Director of Nursing Services, who shall be a licensed registered nurse, to administer, supervise, delegate, and evaluate nursing and nursing support services of the facility. The Director of Nursing Services shall serve on the day shift five days per week, eight hours per day, except when it is necessary to vary working hours to provide supervision on other shifts, and may satisfy the day-shift nurse requirement for five of seven days per week if he or she can meet both the nursing care needs of the patients or residents for that shift and his or her administrative and supervisory responsibilities as Director of Nursing Services;

(12) Intermediate care facility for the mentally retarded ~~shall mean~~ means any institution, facility, place, or building, not licensed as a hospital, that provides accommodation, board, training or habilitation services, advice, counseling, diagnosis, treatment, and care, including nursing care and related medical services, for a period exceeding twenty-four

consecutive hours for fifteen or more nonrelated individuals who have mental retardation or related conditions, including epilepsy, cerebral palsy, or other developmental disabilities. The requirement of fifteen or more nonrelated individuals shall not apply to any intermediate care facility for the mentally retarded which has a valid license as of January 1, 1988;

(13) Residential care facility ~~shall mean~~ means any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation, board, and care, such as personal assistance in feeding, dressing, and other essential daily living activities, to four or more nonrelated individuals who by reason of illness, disease, injury, deformity, disability, or physical or mental infirmity are unable to sufficiently or properly care for themselves or manage their own affairs but do not require the daily services of a licensed registered nurse or licensed practical nurse;

(14) Domiciliary facility ~~shall mean~~ means any institution, facility, place, or building in which there are provided for a period exceeding twenty-four consecutive hours accommodation and supervision to four or more individuals, not related to the owner, occupant, manager, or administrator thereof, who are essentially capable of managing their own affairs but who are in need of supervision, including supervision of nutrition, by the institution, facility, place, or building on a regular, continuing basis but not necessarily on a consecutive twenty-four-hour basis. This definition ~~shall does~~ not include those homes or facilities providing casual care at irregular intervals;

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

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

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

(18) Home health agency ~~shall mean~~ means a public agency, private organization, or subdivision of such an agency or organization which is primarily engaged in providing skilled nursing care or a minimum of one other therapeutic service as defined by the department on a full-time, part-time, or intermittent basis to patients in a place of temporary or permanent residence used as the patient's home under a plan of care as prescribed by the attending physician and which meets the rules, regulations, and standards as established by the department. Nothing in this subdivision shall be construed to require (a) a physician's plan of care, (b) a summary report to the physician, (c) a progress report, or (d) a discharge summary when only personal care or assistance with the activities of daily living, as such terms are defined in section 71-6602, are provided. Parent home health agency ~~shall mean~~ means the primary home health agency which establishes, maintains, and assures administrative and supervisory control of branch offices and subunits. Branch office ~~shall mean~~ means a home health agency which is at a location or site providing services within a portion of the total geographic area served by the



parent agency and is in sufficient proximity to share administration, supervision, and services with its parent agency in a manner that renders it unnecessary for the branch independently to meet licensure requirements. A branch office shall be part of its parent home health agency and share administration and services. Subunit shall mean means a home health agency which serves patients in a geographic area different from that of the parent agency and which, by virtue of the distance between it and the parent agency, is judged incapable of sharing administration, supervision, and services on a daily basis and shall independently meet the licensing requirements for home health agencies. Home health agency shall does not include private duty nursing registries as long as the private duty nursing registrant is the direct payee from the patient. Home health agency shall does not apply to the practice of home health care by other licensed medical persons as authorized by the practice of their particular specialty nor to the individuals providing homemaker or chore services within the home;

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

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

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

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

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

(24) 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.

Sec. 104. Section 71-2021.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-2021.01. Any nursing home may be licensed as in more than one category of nursing home so long as under subdivisions (6), (9) through (14), and (21) of section 71-2017.01 and under section 71-5901 if it meets all of the applicable requirements for the applicable category, but only the fees for the highest licensure category need be paid. Multiple categories shall be evidenced, upon request of the applicant or licensee, by separate licenses or by notation of the various categories on one single licensure document or certificate. In the case of a nursing home operating under multiple

categories, only that separate and distinct portion of the nursing home actually operating as the highest licensure category shall be required to comply with departmental standards for the highest licensure category, and all other separate and distinct portions of such nursing home need comply only with the departmental standards for that type of activity.

Sec. 105. Section 71-2601, Reissue Revised Statutes of Nebraska, is amended to read:

71-2601. The State Board of Health shall consist of seventeen members to be appointed by the Governor with the consent of a majority of the members of the Legislature. Two members shall be licensed to practice medicine and surgery in this state, one member shall be licensed to practice dentistry in this state, one member shall be licensed to practice optometry in this state, one member shall be licensed to practice veterinary medicine in this state, one member shall be licensed to practice pharmacy in this state, two members shall be licensed to practice nursing in this state, one member shall be licensed to practice osteopathic medicine and surgery or as an osteopathic physician in this state, one member shall be licensed to practice podiatry in this state, one member shall be licensed to practice chiropractic in this state, one member shall be licensed to practice physical therapy in this state, one member shall be a registered professional engineer in this state, one member shall be an administrator of a hospital in this state which is licensed pursuant to sections 71-2017 to 71-2029, one member shall be a credentialed mental health professional, and two members shall be laypersons who at all times are public-spirited citizens of Nebraska interested in the health of the people of the State of Nebraska and not less than twenty-one years of age. The Governor shall also be an ex officio member of such board but shall be permitted to vote on matters before the board only when necessary to break a tie.

Sec. 106. 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, ~~or~~ 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 ~~not already licensed under Chapter 41 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. 107. 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. of not less than twenty-five nor more than forty-five dollars. Where a person operates or is seeking to operate more than one recreation camp, a separate application shall be made for each camp. Such a permit shall not be transferable or assignable. It shall expire one year from the date of its issuance, ~~or~~ upon a change of operator of the camp, or upon revocation. If the department finds, after investigation, that the camp or the proposed operation thereof conforms, or will conform, to the minimum standards for recreation camps, a permit on a form prescribed by the department shall be issued for operation of the camp. All fees shall be ~~paid into the state treasury and by remitted to the State Treasurer credited for credit~~ to the Department of Health and Human Services Regulation and Licensure Cash Fund.

Sec. 108. Section 71-4629, Reissue Revised Statutes of Nebraska, is amended to read:

71-4629. The department shall adopt, promulgate, and enforce by rules and regulations standards governing utility systems and sanitary conditions for mobile home parks. The department shall not adopt or enforce by rules and regulations any design, construction, or land-use standards for any mobile home park. Mobile home parks in existence and operation on July 10, 1976, shall have until December 31, 1980, within which to comply with the departmental standards required by this section as a condition of licensure, except that in no case shall any such existing and operating mobile home park be required to comply with any electrical system standards.

Sec. 109. Section 71-5305, Reissue Revised Statutes of Nebraska, is amended to read:

71-5305. (1) No major construction, extension, or alteration of a public water supply system shall be commenced after July 10, 1976, without written authorization from the director. No such authorization shall be needed in the case of minor repairs and matters of maintenance. No such authorization shall be granted unless plans and specifications, prepared by a registered professional engineer, and any additional information required by the department have been submitted to the department or its designated agent for review.

(2) Upon a finding that there has been compliance with the minimum sanitary requirements adopted pursuant to section 71-5304, authorization to proceed with construction shall be granted by the director or his or her designated agent. In issuing authorization for the development of new public water supply sources, consideration shall be given to the location and effects of other water supply systems and the location of points of discharge or disposal for solid and liquid wastes.

Sec. 110. Section 71-5311, Reissue Revised Statutes of Nebraska, is amended to read:

71-5311. (1) There is hereby established the Advisory Council on Public Water Supply which shall advise and assist the department in administering the Nebraska Safe Drinking Water Act.

(2) The council shall be composed of seven members appointed by the Governor, (a) one of whom shall be a registered professional engineer, (b) one of whom shall be a licensed physician, (c) two of whom shall be consumers of a public water supply system, (d) two of whom shall be operators of a public water supply system who possess a certificate of competency issued by the Department of Health and Human Services Regulation and Licensure to operate a public water supply system. One such operator shall represent a system serving a population of five thousand or less, and one such operator shall represent a system serving a population of more than five thousand, and (e) one of whom shall be, at the time of appointment, (i) an individual who owns a public water supply system, (ii) a member of the governing board of a public or private corporation which owns a public water supply system, or (iii) in the case of a political subdivision which owns a public water supply system, a member of the subdivision's governing board or board of public works or similar board which oversees the operation of a public water supply system.

Any owner or operator of a public water supply system serving on the council on March 2, 1989, shall continue to serve until the term of such member expires. As his or her term expires, such owner or operator shall be replaced by a person qualified as prescribed in subdivisions (d) and (e) of this subsection respectively.

(3) All members shall be appointed for three-year terms. No member shall serve more than three consecutive three-year terms. Each member shall hold office until the expiration of his or her term or until a successor has been appointed. Any vacancy occurring in council membership, other than by expiration of term, shall be filled within sixty days by the Governor by appointment from the appropriate category for the unexpired term.

(4) The council shall meet not less than once each year. Special meetings of the council may be called by the director or upon the written request of any two members of the council explaining the reason for such meeting. The place of the meeting shall be set by the director. Such officers as the council deems necessary shall be elected every three years beginning with the first meeting in the year 1990. A majority of the members of the council shall constitute a quorum for the transaction of business. Representatives of the department shall attend each meeting. Every act of the majority of the members of the council shall be deemed to be the act of the council.

(5) No member of the council shall receive any compensation, but each member shall be entitled, while serving on the business of the council, to receive his or her travel and other necessary expenses while so serving away from his or her place of residence as provided in sections 81-1174 to 81-1177.

Sec. 111. Section 71-5832.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-5832.01. When the estimated cost of a proposed project is certified and filed with the department, at least thirty days before the date on which the obligation for an expenditure for the project is incurred, by a registered architect or licensed professional engineer to be less than the capital expenditure minimum, such proposed project shall be deemed not to exceed the capital expenditure minimum regardless of the actual cost of such project. A narrative statement showing the type and description of the project, including working drawings and specifications for construction projects, shall be filed with the department with the cost estimate. If the department finds the estimate to be substantially in error, and the project will cost in excess of the capital expenditure minimum, the department may, within twenty days after receiving the estimate, require that a certificate of need be obtained and shall so notify the proponent of the project in writing. When the actual cost of the project exceeds the capital expenditure minimum, the proponent of the project shall provide written notification of such cost to the department within thirty days after the date on which the proponent becomes aware that the actual cost of the proposed project will exceed such amount.

Sec. 112. Section 71-6801, Reissue Revised Statutes of Nebraska, is amended to read:

71-6801. Sections 71-6801 to 71-6831 shall be known and may be cited as the Clinical Laboratories Certification Act. Sections 71-6802 to 71-6828, 71-6830, and 71-6831 shall become operative October 1, 1997 1999.

Sec. 113. Section 76-846, Reissue Revised Statutes of Nebraska, is amended to read:

76-846. (a) Plats and plans are a part of the declaration. Separate plats and plans are not required by sections 76-825 to 76-894 if all the information required by this section is contained in either a plat or plan.

(b) Each plat must show:

(1) the name and a survey or general schematic map of the entire condominium;

(2) the extent of any existing encroachments by or upon any portion of the condominium;

(3) to the extent feasible, a legally sufficient description or drawing of all easements serving or burdening any portion of the condominium;

(4) the location and dimensions of any vertical unit boundaries not shown or projected on plans recorded pursuant to subsection (d) of this section and that unit's identifying number;

(5) the location with reference to an established datum of any horizontal unit boundaries not shown or projected on plans recorded pursuant to subsection (d) of this section and that unit's identifying number;

(6) a legally sufficient description of any real estate in which the unit owners will own only an estate for years, labeled as leasehold real estate;

(7) the distance between noncontiguous parcels of real estate comprising the condominium; and

(8) the location and dimensions of limited common elements, including porches, balconies, and patios, other than parking spaces and the other limited common elements described in subdivisions (2) and (4) of section 76-839.

(c) A plat may also show the intended location and dimensions of any contemplated improvement to be constructed anywhere within the condominium. Any contemplated improvement shown must be labeled either Must Be Built or Need Not Be Built.

(d) To the extent not shown or projected on the plats, plans of the units must show or project:

(1) the location and dimensions of the vertical boundaries of each unit, and that unit's identifying number;

(2) any horizontal unit boundaries, with reference to an established datum, and that unit's identifying number; and

(3) any units in which the declarant has reserved the right to create additional units or common elements pursuant to subsection (c) of section 76-847, identified appropriately.

(e) Unless the declaration provides otherwise, the horizontal boundaries of part of a unit located outside of a building have the same elevation as the horizontal boundaries of the inside part, and need not be depicted on the plats and plans.

(f) Upon exercising any development right, the declarant shall record either new plats and plans necessary to conform to the requirements of

subsections (a), (b), and (d) of this section, or new certifications of plats and plans previously recorded if those plats and plans otherwise conform to the requirements of those subsections.

(g) Any plat or plan required by sections 76-825 to 76-894 must be prepared by a registered surveyor, an architect, or a professional engineer.

Sec. 114. Section 76-881, Reissue Revised Statutes of Nebraska, is amended to read:

76-881. (a) The public-offering statement of a condominium containing any conversion building must contain, in addition to the information required by section 76-880:

(1) a brief statement by a registered an architect or a professional engineer describing the apparent condition of the structural components and mechanical and electrical installations material to the use and enjoyment of the building;

(2) a statement by the declarant of the age of each item reported on in paragraph (1) of this subsection or a statement that no representations are made in that regard; and

(3) a list of any outstanding notices of uncured violations of building codes or other municipal regulations of which the declarant is actually aware.

(b) This section applies only to buildings containing units that may be occupied for residential use.

Sec. 115. Section 76-894, Reissue Revised Statutes of Nebraska, is amended to read:

76-894. In the case of a sale of a unit where delivery of a public-offering statement is required, a contract of sale may be executed, but no interest in that unit may be conveyed, until the declaration is recorded and the unit is substantially completed, as evidenced by a recorded certificate of substantial completion executed by a registered an architect, a surveyor, or a professional engineer, or by issuance of a certificate of occupancy authorized by law.

Sec. 116. Section 81-502.01, Reissue Revised Statutes of Nebraska, is amended to read:

81-502.01. For the purposes of assisting the State Fire Marshal in matters pertaining to the performance of his or her duties, there is hereby established the Nebraska Fire Safety Appeals Board. Such board shall consist of the following members: (1) A representative of the fire insurance industry with experience in fire prevention inspections, (2) an architect registered 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 of the Department of Health and Human Services, (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. ~~Members serving on the advisory committee to the office of the State Fire Marshal on September 2, 1977, shall, after September 2, 1977, serve as members of the Nebraska Fire Safety Appeals Board and shall continue serving the terms to which they were appointed.~~

Sec. 117. Section 81-513, Reissue Revised Statutes of Nebraska, is amended to read:

81-513. The State Fire Marshal may condemn and by order direct the destruction, repair, or alteration of any building or structure which by reason of age, dilapidated condition, defective chimneys, defective electric wiring, gas connections, heating apparatus, or other defect is especially liable to fire and which, in his or her judgment, is so situated as to endanger life or limb or other buildings or property in the vicinity. Before he or she condemns or orders the destruction, closing, or nonoccupancy of any building or structure owned by a governmental entity for any other cause than fire prevention, he or she shall be required to submit a written report from a building contractor, a registered an architect, or a registered professional engineer stating the condition of the building and the reason why such building or structure should be condemned, destroyed, closed, or ordered to remain unoccupied, and a copy of the report shall be attached to the order. In case the order requires the repair of a building, the owner, lessee, or other person upon whom rests the duty to keep the structure in repair and upon whom such order is served shall make such repairs as are thereby directed within the limit of time stated in the order. The order, if considered necessary by the State Fire Marshal for the protection of life or property, may direct that the structure be closed and not further used or occupied until such repairs are made. Any person who shall willfully disobey the order

directing the closing of such buildings, pending the making of such repairs, shall be guilty of a Class III misdemeanor. Each day such person shall neglect or refuse to obey the order shall be deemed a separate and distinct offense in violation thereof.

Sec. 118. Section 81-8,126, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,126. Sections 81-8,108 to 81-8,127 shall not apply to (1) any land surveyor working for the United States Government while performing his or her duties as an employee of the government, (2) any person employed as an assistant to a land surveyor registered under such sections, or (3) any professional engineer or person working under the direct supervision of an a professional engineer registered licensed under sections 81-839 to 81-856 the Engineers and Architects Regulation Act doing work which does not involve the location, description, establishment, or reestablishment of property corners or property lines or work which does not create descriptions, definitions, or areas for transfer of an estate in real property.

Sec. 119. Section 81-8,206, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,206. The provisions of sections 81-8,184 to 81-8,208 shall not apply to:

(1) Any person who is an employee of a registered landscape architect and who performs landscape architectural work under the direction and supervision of a registered landscape architect, but such work shall not include responsible change of design or administration of construction contracts;

(2) Any full-time employee who performs landscape architectural work for his or her employer when all such work is in connection with a facility owned or operated by the employer and when such work does not endanger the public welfare, health, and safety, and when the service is not offered to the public;

(3) Any registered professional architect or professional engineer, but such architect or engineer may not use the title landscape architect unless he or she is registered pursuant to sections 81-8,184 to 81-8,208; or

(4) Any person who seeks advice or help of any other person in planning, planting, or maintaining the planting or conservation work on any property he or she owns or controls or who does such things himself or herself.

Sec. 120. Except for long-term care facilities subject to the jurisdiction of the state long-term care ombudsman pursuant to the Long-Term Care Ombudsman Act, the contracting agency shall ensure that any contract which a state agency enters into or renews which agrees that a corporation, partnership, business, firm, governmental entity, or person shall provide health and human services to individuals on behalf of the State of Nebraska shall contain a clause requiring the corporation, partnership, business, firm, governmental entity, or person to submit to the jurisdiction of the Public Counsel under sections 81-8,240 to 81-8,254 with respect to the provision of services under the contract.

Sec. 121. Section 81-8,240, Reissue Revised Statutes of Nebraska, is amended to read:

81-8,240. As used in sections 81-8,240 to 81-8,254, unless the context otherwise requires:

(1) Administrative agency shall mean any department, board, commission, or other governmental unit, any official, or any employee of the State of Nebraska acting or purporting to act by reason of connection with the State of Nebraska, or any corporation, partnership, business, firm, governmental entity, or person who is providing health and human services to individuals under contract with the State of Nebraska and who is subject to the jurisdiction of the office of Public Counsel as required by section 120 of this act; but shall not include (a) any court, (b) any member or employee of the Legislature or the Legislative Council, (c) the Governor or his personal staff, (d) any political subdivision or entity thereof, (e) any instrumentality formed pursuant to an interstate compact and answerable to more than one state, or (f) any entity of the federal government; and

(2) Administrative act shall include every action, rule, regulation, order, omission, decision, recommendation, practice, or procedure of an administrative agency.

Sec. 122. Section 81-1108.43, Revised Statutes Supplement, 1996, is amended to read:

81-1108.43. No state agency or department shall perform for itself any of the services normally performed by a professional engineer or architect as defined in section 81-840 in the preparation of plans and specifications for the construction, reconstruction, or alteration of any building or in the

administration of the construction documents and final approval of the project when the total project cost is one hundred thousand dollars or more, and no state agency shall employ its own work force for any such construction, reconstruction, or alteration of capital facilities when the total project cost is fifty thousand dollars or more. This section shall not apply to section 83-134, to the Department of Roads, or to any public power district, public power and irrigation district, irrigation district, or metropolitan utilities district. If, during the program statement review provided for under section 81-1108.41, it is determined that existing or standard plans and specifications are available or required for the project, the division may authorize an exemption from this section. The Director of Administrative Services shall not issue any warrant in payment for any work on a capital construction project unless the state agency or department files a certificate that it has complied with the provisions of this section.

Sec. 123. Section 81-1201.08, Reissue Revised Statutes of Nebraska, is amended to read:

81-1201.08. (1) The department shall have an advisory committee to provide regular consultation to the Community Development Block Grant Program.

(2) The members of the Community Development Block Grant Program Advisory Committee shall be appointed by the commission upon the recommendation of the department and shall be:

(a) Two municipal officials from cities of the first class which are nonentitlement cities as defined in the federal Housing and Community Development Act of 1974, as amended. One municipal official shall be an elected official. One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(b) Two municipal officials from cities of the second class. One municipal official shall be an elected official. One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(c) Two municipal officials from villages. One municipal official shall be an elected official. One municipal official shall be an appointed official. The municipal officials shall reside in different congressional districts;

(d) Two elected county officials who reside in different congressional districts;

(e) One staff member from a development district or a regional council;

(f) One staff member from the Governor's Policy Research Office;

(g) One staff member from the community action corporations; and

(h) One registered professional engineer.

(3) The commission shall adopt a selection process for the remaining advisory committees and the committee members shall be selected according to such process by the commission upon the recommendation of the department.

Sec. 124. Section 81-1504, Revised Statutes Supplement, 1996, is amended to read:

81-1504. The department shall have and may exercise the following powers and duties:

(1) To exercise exclusive general supervision of the administration and enforcement of the Environmental Protection Act and the Integrated Solid Waste Management Act and all rules and regulations and orders promulgated under such acts;

(2) To develop comprehensive programs for the prevention, control, and abatement of new or existing pollution of the air, waters, and land of the state;

(3) To advise and consult, cooperate, and contract with other agencies of the state, the federal government, and other states, with interstate agencies, and with affected groups, political subdivisions, and industries in furtherance of the purposes of the acts;

(4) To act as the state water pollution, air pollution, and solid waste pollution control agency for all purposes of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., the Clean Air Act, as amended, 42 U.S.C. 7401 et seq., the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq., and any other federal legislation pertaining to loans or grants for environmental protection and from other sources, public or private, for carrying out any of its functions, which loans and grants shall not be expended for other than the purposes for which provided;

(5) To encourage, participate in, or conduct studies, investigations, research, and demonstrations relating to air, land, and water pollution and causes and effects, prevention, control, and abatement of such pollution as it may deem advisable and necessary for the discharge of its duties under the Environmental Protection Act and the Integrated Solid Waste

Management Act, using its own staff or private research organizations under contract;

(6) To collect and disseminate information and conduct educational and training programs relating to air, water, and land pollution and the prevention, control, and abatement of such pollution;

(7) To issue, modify, or revoke orders (a) prohibiting or abating discharges of wastes into the air, waters, or land of the state and (b) requiring the construction of new disposal systems or any parts thereof or the modification, extension, or adoption of other remedial measures to prevent, control, or abate pollution;

(8) To administer state grants to political subdivisions for solid waste disposal facilities and for the construction of sewage treatment works and facilities to dispose of water treatment plant wastes;

(9) To (a) hold such hearings and give notice thereof, (b) issue such subpoenas requiring the attendance of such witnesses and the production of such evidence, (c) administer such oaths, and (d) take such testimony as the director deems necessary, and any of these powers may be exercised on behalf of the director by a hearing officer designated by the director;

(10) To require submission of plans, specifications, and other data relative to, and to inspect construction of, disposal systems or any part thereof prior to issuance of such permits or approvals as are required by the Environmental Protection Act and the Integrated Solid Waste Management Act;

(11) To issue, continue in effect, revoke, modify, or deny permits, under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, (a) to prevent, control, or abate pollution, (b) for the discharge of wastes into the air, land, or waters of the state, and (c) for the installation, modification, or operation of disposal systems or any parts thereof;

(12) To require proper maintenance and operation of disposal systems;

(13) To exercise all incidental powers necessary to carry out the purposes of the Environmental Protection Act and the Integrated Solid Waste Management Act;

(14) To establish bureaus, divisions, or sections for the control of air pollution, water pollution, mining and land quality, and solid wastes which shall be administered by full-time salaried bureau, division, or section chiefs and to delegate and assign to each such bureau, division, or section and its officers and employees the duties and powers granted to the department for the enforcement of Chapter 81, article 15, and the Integrated Solid Waste Management Act and the standards, rules, and regulations adopted pursuant thereto;

(15)(a) To require access to existing and available records relating to (i) emissions or discharges which cause or contribute to air, land, or water pollution or (ii) the monitoring of such emissions or discharges; and

(b) To require, for purposes of developing or assisting the development of any regulation or enforcing any of the provisions of the Environmental Protection Act which pertain to hazardous waste, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous waste, upon request of any officer, employee, or representative of the department, to furnish information relating to such waste and any permit involved. Such person shall have access at all reasonable times to a copy of all results relating to such waste;

(16) To obtain such scientific, technical, administrative, and operational services including laboratory facilities, by contract or otherwise, as the director deems necessary;

(17) To encourage voluntary cooperation by persons and affected groups to achieve the purposes of the Environmental Protection Act and the Integrated Solid Waste Management Act;

(18) To encourage local units of government to handle air, land, and water pollution problems within their respective jurisdictions and on a cooperative basis and to provide technical and consultative assistance therefor;

(19) To consult with any person proposing to construct, install, or otherwise acquire an air, land, or water contaminant source or a device or system for control of such source, upon request of such person, concerning the efficacy of such device or system or concerning the air, land, or water pollution problem which may be related to the source, device, or system. Nothing in any such consultation shall be construed to relieve any person from compliance with the Environmental Protection Act or the Integrated Solid Waste Management Act, rules and regulations in force pursuant to the acts, or any other provision of law;

(20) To require all persons engaged or desiring to engage in



operations which result or which may result in air, water, or land pollution to secure a permit prior to installation or operation or continued operation;

(21) To enter and inspect, during reasonable hours, any building or place, except a building designed for and used exclusively for a private residence;

(22) To receive or initiate complaints of air, water, or land pollution, hold hearings in connection with air, water, or land pollution, and institute legal proceedings in the name of the state for the control or prevention of air, water, or land pollution, and for the recovery of penalties, in accordance with the Environmental Protection Act and the Integrated Solid Waste Management Act;

(23) To delegate, by contract with governmental subdivisions which have adopted local air, water, or land pollution control programs approved by the council, the enforcement of state-adopted air, water, or land pollution control regulations within a specified region surrounding the jurisdictional area of the governmental subdivisions. Prosecutions commenced under such contracts shall be conducted by the Attorney General or county attorneys as provided in the Environmental Protection Act and the Integrated Solid Waste Management Act;

(24) To conduct tests and take samples of air, water, or land contaminants, fuel, process materials, or any other substance which affects or may affect discharges or emissions of air, water, or land contaminants from any source, giving the owner or operator a receipt for the sample obtained;

(25) To develop and enforce compliance schedules, under such conditions as the director may prescribe and consistent with the standards, rules, and regulations adopted by the council, to prevent, control, or abate pollution;

(26) To employ the Governor's Keep Nebraska Beautiful Committee for such special occasions and projects as the department may decide. Reimbursement of the committee shall be made from state and appropriate federal matching funds for each assignment of work by the department as provided in sections 81-1174 to 81-1177;

(27) To provide, to the extent determined by the council to be necessary and practicable, for areawide, selective, and periodic inspection and testing of motor vehicles to secure compliance with applicable exhaust emission standards for a fee not to exceed five dollars to offset the cost of inspection;

(28) To enforce, when it is not feasible to prescribe or enforce any emission standard for control of air pollutants, the use of a design, equipment, a work practice, an operational standard, or a combination thereof, adequate to protect the public health from such pollutant or pollutants with an ample margin of safety;

(29) To establish the position of public advocate to be located within the department to assist and educate the public on departmental programs and to carry out all duties of the ombudsman as provided in the Clean Air Act, as amended, 42 U.S.C. 7661f;

(30) Under such conditions as it may prescribe for the review, recommendations, and written approval of the director, to require the submission of such plans, specifications, and other information as it deems necessary to carry out the Environmental Protection Act and the Integrated Solid Waste Management Act or to carry out the rules and regulations adopted pursuant to the acts. When deemed necessary by the director, the plans and specifications shall be prepared and submitted by a professional engineer duly registered licensed to practice in Nebraska;

(31) To carry out the provisions of the Petroleum Products and Hazardous Substances Storage and Handling Act; and

(32) To consider the risk to human health and safety and to the environment in evaluating and approving plans for remedial action.

Sec. 125. Section 81-15,155, Revised Statutes Supplement, 1996, is amended to read:

81-15,155. (1) All loans made under the Wastewater Treatment Facilities Construction Assistance Act shall be made only to municipalities or to counties that:

(a) Meet the requirements of financial capability set by the department;

(b) Pledge sufficient revenue sources for the repayment of the loan if such revenue may by law be pledged for that purpose;

(c) Agree to maintain financial records according to generally accepted government accounting standards and to conduct an audit of the project's financial records;

(d) Provide a written assurance, signed by an attorney, that the municipality or county has proper title, easements, and rights-of-way to the

property on or through which the wastewater treatment works or nonpoint source control systems is to be constructed or extended;

(e) Require the contractor of the construction project to post separate performance and payment bonds or other security approved by the department in the amount of the bid;

(f) Provide a written notice of completion and start of operation of the facility; and

(g) Employ a registered professional engineer to provide and be responsible for engineering services on the project such as an engineering report, construction contract documents, observation of construction, and startup services.

(2) Loans made under the act for the construction, rehabilitation, operation, and maintenance of wastewater treatment works shall be made only to municipalities or to counties which meet the conditions of subsection (1) of this section and, in addition, that:

(a) Develop and implement a long-term wastewater treatment works management plan for the term of the loan, including yearly renewals;

(b) Provide capacity for twenty years domestic and industrial growth or reasonable capacity as determined by the department;

(c) Agree to operate and maintain the wastewater treatment works so that it will function properly over the structural and material design life which shall not be less than twenty years; and

(d) Provide a certified operator pursuant to voluntary or mandatory certification program, whichever is in effect.

Sec. 126. Section 81-1609, Reissue Revised Statutes of Nebraska, is amended to read:

81-1609. As used in sections 81-1608 to 81-1626, unless the context otherwise requires:

(1) Office shall mean the State Energy Office;

(2) Contractor shall mean the person or entity responsible for the overall construction of any building or the installation of any component which affects the energy efficiency of the building;

(3) Architect or engineer shall mean any person registered pursuant to section 81-847 licensed as an architect or professional engineer under the Engineers and Architects Regulation Act;

(4) Building shall mean any new structure, renovated building, or addition which provides facilities or shelter for public assembly, educational, business, mercantile, institutional, warehouse, or residential occupancies, as well as those portions of factory and industrial facilities which are used primarily for human occupancy, such as office space, but not including any structure which has a consumption of traditional energy sources for all purposes not exceeding the energy equivalent of one watt per square foot;

(5) Residential building shall mean a building three stories or less that is used primarily as one or more dwelling units;

(6) Renovation shall mean alterations on an existing building which will cost more than fifty percent of the replacement cost of such building at the time work is commenced or which was not previously heated or cooled, for which a heating or cooling system is now proposed, except that the restoration of historical buildings shall not be included;

(7) Addition shall mean any construction added to an existing building which will increase the floor area of that building by five percent or more;

(8) Floor area shall mean the total area of the floor or floors of a building, expressed in square feet, which is within the exterior faces of the shell of the structure which is heated or cooled;

(9) Board shall mean the Building Energy Conservation Standards Board created by section 81-1610;

(10) Nebraska Building Energy Conservation Standard shall mean the Model Energy Code, 1983 Edition, of the Council of American Building Officials; and

(11) Traditional energy sources shall mean electricity, petroleum-based fuels, uranium, coal, and all nonrenewable forms of energy.

Sec. 127. Section 81-2103, Reissue Revised Statutes of Nebraska, is amended to read:

81-2103. There is hereby established an independent agency to be known as the State Electrical Division which shall be under the administrative and operative control of the executive director of such division. The division shall include a seven-member State Electrical Board appointed by the Governor with the consent of the Legislature. All members of the board shall be residents of the State of Nebraska. The board shall direct the efforts of the executive director and set the policy of the division. One of such

members shall be a journeyman electrician, one shall be an electrical contractor or master electrician, one shall be a certified electrical inspector, one shall be a registered professional licensed professional electrical engineer, one shall be a representative of the rural electric systems in the state, one shall be a representative of the municipal electric systems in the state, and one shall be a member of any of such groups. The members of the board shall be appointed for staggered terms of five years. Any vacancy occurring in the membership of the board shall be filled by the Governor for the unexpired term. Each member of the board, before entering on the discharge of his or her duties and within thirty days from the effective date of his or her appointment, shall subscribe to an oath for the faithful performance of his or her duties before any officer authorized to administer oaths in this state and shall file the oath with the Secretary of State. The executive director shall be the executive secretary of the board and shall be responsible for all books, records, and transcripts of proceedings of the board.

Sec. 128. Section 81-3003, Revised Statutes Supplement, 1996, is amended to read:

81-3003. For purposes of the Nebraska Partnership for Health and Human Services Act:

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

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

(3) Departments means the Department of Health and Human Services, the Department of Health and Human Services Regulation and Licensure, and the Department of Health and Human Services Finance and Support which are the redesignated departments of health and human services effective January 1, 1997, as set forth in section 81-3006;

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

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

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

(7) Partnership council means the Health and Human Services System Partnership Council established in section 81-3010;

(8) Policy Cabinet means the directors of the departments, and the Policy Secretary, and the chief medical officer, if one is appointed under section 81-3201, and is not intended to create or imply the creation of a separate legal entity or a public body subject to sections 84-1408 to 84-1414;

(9) Policy Secretary means the health and human services system Policy Secretary described in section 81-3008; and

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

Sec. 129. Section 81-3009, Revised Statutes Supplement, 1996, is amended to read:

81-3009. On and after January 1, 1997, the directors of the departments, and the Policy Secretary, and the chief medical officer, if one is appointed under section 81-3201, shall work jointly as a Policy Cabinet to achieve policy outcomes through development of policy objectives and strategic plans, to prepare and recommend budgets, to develop and establish consistent priorities and policies for allocation and distribution of resources, to establish procedures to promote and support collaborative community efforts or local service networks, to integrate the services of the departments, to evaluate that outcomes are achieved, and to make health and human services system improvements in accordance with the intent and purposes of the Nebraska Partnership for Health and Human Services Act. The Policy Secretary shall serve as the chairperson of the Policy Cabinet.

Sec. 130. Section 81-3201, Revised Statutes Supplement, 1996, is amended to read:

81-3201. (1) The Director of Regulation and Licensure appointed by the Governor for the Department of Health and Human Services Regulation and Licensure shall ~~(1)~~ (a) have administrative experience in an executive capacity and some special training in public health work and ~~(2)~~ (b) be either a graduate of a recognized school of medicine and licensed to practice medicine and surgery in the State of Nebraska or a person with a recognized and demonstrated expertise in and knowledge of health and human services delivery. If the director appointed is not a licensed physician, he or she shall appoint a health director to be responsible for the administration of public health programs and programs involving licensure and discipline of health professionals who is the Governor shall appoint a chief medical officer to be responsible for oversight of health issues in the health and human services system, as defined in section 81-3003, and decisions in contested cases under the Uniform Licensing Law as specified in section 78 of this act and of health care facilities and occupations as specified in this section.

(2) The chief medical officer is subject to confirmation by a majority of the members of the Legislature. The chief medical officer shall be a graduate of a recognized school of medicine and licensed to practice medicine and surgery in the State of Nebraska and has some special training in public health work. If a chief medical officer is appointed, he or she shall perform the duties under the Uniform Licensing Law specified in section 78 of this act and shall be the final decisionmaker in contested cases of (a) the health care facilities defined in section 71-2017.01 arising under sections 71-2023, 71-2023.01 to 71-2023.07, 71-6025 to 71-6031, 71-6042, 71-6712, and 81-604.03, (b) boarding homes under section 71-5906, and (c) occupations referenced in sections 71-6038, 71-6039, 71-6702, and 71-6710.

Sec. 131. Sections 62 to 74, 76, 79 to 83, 85 to 99, 101 to 104, 106 to 108, 112, 120, 121, 135, and 136 of this act become operative three calendar months after the adjournment of this legislative session. Sections 1 to 61, 75, 100, 105, 109 to 111, 113 to 119, 122 to 127, 134, and 137 of this act become operative January 1, 1998. The other sections of this act become operative on their effective date.

Sec. 132. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 133. Original sections 71-101 and 71-1,314, Reissue Revised Statutes of Nebraska, and sections 81-3003, 81-3009, and 81-3201, Revised Statutes Supplement, 1996, are repealed.

Sec. 134. Original sections 2-3256, 21-2205, 39-1603, 39-2306, 46-701, 71-1564, 71-2601, 71-5305, 71-5311, 71-5832.01, 76-846, 76-881, 76-894, 81-502.01, 81-513, 81-8,126, 81-8,206, 81-1201.08, 81-1609, and 81-2103, Reissue Revised Statutes of Nebraska, and sections 23-1901, 33-150, 81-1108.43, 81-1504, and 81-15,155, Revised Statutes Supplement, 1996, are repealed.

Sec. 135. Original sections 43-248, 43-251, 43-277, 43-278, 43-2,108, 48-224, 71-147, 71-162, 71-1,235, 71-201, 71-203, 71-208, 71-211.01, 71-212, 71-217, 71-219.01, 71-219.02, 71-219.04, 71-220.01, 71-223.01, 71-225, 71-227, 71-232, 71-245, 71-1903, 71-1913, 71-2017.01, 71-2021.01, 71-3101, 71-3102, 71-4629, 71-6801, and 81-8,240, Reissue Revised Statutes of Nebraska, and sections 43-245, 43-247, 43-250, 43-272.01, 43-284, and 43-2,129, Revised Statutes Supplement, 1996, are repealed.

Sec. 136. The following sections are outright repealed: Sections 28-1430, 28-1431, 28-1433, 71-901 to 71-905, and 71-1766 to 71-1771, Reissue Revised Statutes of Nebraska, and section 28-1432, Revised Statutes Supplement, 1996.

Sec. 137. The following sections are outright repealed: Sections 81-839 to 81-856, Reissue Revised Statutes of Nebraska.

Sec. 138. Since an emergency exists, this act takes effect when passed and approved according to law.