

LEGISLATIVE BILL 93

Approved by the Governor March 18, 2002

Introduced by Schimek, 27

AN ACT relating to state government; to amend sections 44-788, 60-2121, 71-3503, 71-3504, 71-3508.01, 71-4903, 75-366, 79-1312, 81-177, 81-1417, and 83-4,124, Reissue Revised Statutes of Nebraska, sections 2-2626, 20-139, 50-1302, 71-1405, 71-3505, 71-4609, 77-27,187, 81-5,147, and 81-8,307, Revised Statutes Supplement, 2000, and sections 71-1901 to 71-1905, Revised Statutes Supplement, 2001; to eliminate certain boards, committees, councils, and panels; to change provisions relating to a committee report; to eliminate a duty relating to the Lewis and Clark Bicentennial Commission; to change membership provisions for the Nebraska Commission on Law Enforcement and Criminal Justice and the Jail Standards Board; to harmonize provisions; to repeal the original sections; and to outright repeal sections 60-2122 to 60-2124, 71-1401 to 71-1404, 71-1744, 71-1759, 71-3506, 71-4902, 75-387, 75-388, 77-27,196, 79-1326, 81-5,150, and 81-5,154 to 81-5,156, Reissue Revised Statutes of Nebraska, sections 71-533 to 71-538, 71-1565, 71-1758, 71-1906.02, 71-8606, 79-1327, 80-323, 80-324, and 81-5,149, Revised Statutes Supplement, 2000, and section 71-1906.03, Revised Statutes Supplement, 2001.

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

Section 1. Section 2-2626, Revised Statutes Supplement, 2000, is amended to read:

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

(1) To administer, implement, and enforce the Pesticide Act and serve as the lead state agency for the regulation of pesticides. The department shall involve the natural resources districts and other state agencies, including the Department of Environmental Quality, the Department of Natural Resources, or the Department of Health and Human Services Regulation and Licensure, in matters relating to water quality. Nothing in the act shall be interpreted in any way to affect the powers of any other state agency or of any natural resources district to regulate for ground water quality or surface water quality as otherwise provided by law;

(2) To be responsible for the development and implementation of a state management plan for the prevention, evaluation, and mitigation of occurrences of pesticides or pesticide breakdown products in ground water and surface water of the state. The Department of Environmental Quality shall be responsible for the adoption of standards for pesticides in surface water and ground water, and the Department of Health and Human Services Regulation and Licensure shall be responsible for the adoption of standards for pesticides in drinking water. These standards shall be established as action levels in the state management plan at which prevention and mitigation measures are implemented. Such action levels may be set at or below the maximum contaminant level set for any product as set by the federal agency under the federal Safe Drinking Water Act, 42 U.S.C. 300f et seq. The department shall cooperate with and use existing expertise in other state agencies when developing a state management plan and shall not hire a hydrologist within the department for such purpose. As part of the state management plan and after notice and public hearing, the department may adopt and promulgate rules and regulations providing lists of state-limited-use pesticides for the entire state or for a designated area within the state, subject to the following:

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

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

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

(iii) The department determines that the pesticide requires additional restrictions to meet the requirements of the Pesticide Act, the

federal act, or any plan adopted under the Pesticide Act or the federal act;

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

- (i) With permission of the department;
- (ii) Under direct supervision of the department or its designee in certain areas and under certain conditions;
- (iii) In specified quantities and concentrations or at specified times; or
- (iv) According to such other restrictions as the department may set by regulation;

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

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

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

(3) To adopt and promulgate such rules and regulations as are necessary for the enforcement and administration of the Pesticide Act. ~~There is hereby created a Rules and Regulations Advisory Committee consisting of the Director of Agriculture, Director of Environmental Quality, Director of Natural Resources, and Director of Regulation and Licensure or the designated representative of any of such directors. The committee shall advise the Department of Agriculture in the adoption and promulgation of such rules and regulations as are necessary for the enforcement and administration of the act.~~ The regulations shall include, but not be limited to, regulations providing for:

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

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

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

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

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

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

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

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

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

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

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

(b) Inspect or sample any area exposed or reported to be exposed to a pesticide or where a pesticide application has been made;

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

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

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

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

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

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

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

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

(8) To impose or levy an administrative fine of not more than five thousand dollars on any person who has violated the provisions, requirements, conditions, limitations, or duties imposed by the act. A violation shall mean any separate activity or day in which an activity takes place;

(9) To cause a written complaint to be served upon the alleged violator or violators whenever the director has reason to believe that a violation of any provision of the act, a rule or regulation under the act, or any order of the department has occurred. The complaint shall specify the provision of the act, rule, regulation, or order alleged to be violated and the facts alleged to constitute a violation and shall order that necessary corrective action be taken within a reasonable time to be prescribed in such order. Any such order shall become final unless each person named in the order requests in writing a hearing before the director and answers the charges complained of at a time and a place specified in the notice. In lieu of such order, the director may require that the alleged violator appear before the director at a time and place specified in the notice and answer the charges complained of;

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

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

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

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

(14) To adopt classifications of restricted-use pesticides as determined by the federal agency under the federal act. In addition to the restricted-use pesticides classified by the administrator, the department may also determine state-limited-use pesticides for the state or for designated areas within the state as provided in subdivision (2) of this section;

(15) To receive grants-in-aid from any federal entity, and to enter into cooperative agreements with any federal entity, any agency of this state, any subdivision of this state, any agency of another state, any Indian tribe, or any private person for the purpose of obtaining assistance in the implementation of the Pesticide Act. The department may reimburse any such

entity from the Pesticide Administrative Cash Fund for the work performed under the cooperative agreement. The department may delegate its administrative responsibilities under the act to cities of the metropolitan and primary classes if it reasonably believes that such cities can perform the responsibilities in a manner consistent with the act and the rules and regulations adopted and promulgated under it;

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

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

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

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

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

Sec. 2. Section 20-139, Revised Statutes Supplement, 2000, is amended to read:

20-139. The Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143 shall be administered by the Equal Opportunity Commission, except that the State Fire Marshal shall administer the act and sections as they relate to accessibility standards and specifications set forth in sections 81-5,147 ~~to 81-5,149~~ and 81-5,148. The county attorneys are granted the authority to enforce such act and sections 20-123, 20-124, and 20-132 to 20-143 and shall possess the same powers and duties with respect thereto as the commission. If a complaint is filed with the county attorney, the commission shall be notified. Powers granted to and duties imposed upon the commission pursuant to such act and sections shall be in addition to the provisions of the Nebraska Fair Employment Practice Act and shall not be construed to amend or restrict those provisions. In carrying out the Nebraska Fair Housing Act and sections 20-123, 20-124, and 20-132 to 20-143, the commission shall have the power to:

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

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

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

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

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

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

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

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

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

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

handicap, or ancestry.

Sec. 3. Section 44-788, Reissue Revised Statutes of Nebraska, is amended to read:

44-788. (1) Notwithstanding section 44-3,131, any individual or group sickness and accident insurance policy or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, and any self-funded employee benefit plan to the extent not preempted by federal law, which provides reimbursement for prescription drugs approved by the federal Food and Drug Administration for the treatment of a specific type of cancer shall not exclude coverage of any drug or combination of drugs on the basis that the drug or combination of drugs has not been approved by the federal Food and Drug Administration for the treatment of another specific type of cancer if (a) the drug or combination of drugs is recognized for treatment of the other specific type of cancer in the United States Pharmacopeia-Drug Information and the drug or combination of drugs is approved for sale by the federal Food and Drug Administration or (b) the drug or combination of drugs is recognized for treatment of the other specific type of cancer in medical literature and the drug or combination of drugs is approved for sale by the federal Food and Drug Administration.

(2) Notwithstanding section 44-3,131, any individual or group sickness and accident insurance policy or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, and any self-funded employee benefit plan to the extent not preempted by federal law, which provides reimbursement for prescription drugs approved by the federal Food and Drug Administration for the treatment of human immunodeficiency virus or acquired immunodeficiency syndrome shall not exclude coverage of any drug or combination of drugs on the basis that the drug or combination of drugs has not been approved by the federal Food and Drug Administration for the treatment of human immunodeficiency virus or acquired immunodeficiency syndrome if (a) the drug or combination of drugs is recognized for treatment of human immunodeficiency virus or acquired immunodeficiency syndrome in the United States Pharmacopeia-Drug Information and the drug or combination of drugs is approved for sale by the federal Food and Drug Administration or (b) the drug or combination of drugs is recognized for treatment of human immunodeficiency virus or acquired immunodeficiency syndrome in medical literature and the drug or combination of drugs is approved for sale by the federal Food and Drug Administration.

(3) Any coverage of a drug or combination of drugs required by this section shall include medically necessary services associated with the administration of the drug if such services are covered by the insurance policy, contract, or plan.

(4) Nothing in this section shall be construed to require coverage for any experimental or investigational drug not approved by the federal Food and Drug Administration.

(5) For purposes of this section, medical literature means two articles from major peer-reviewed professional medical journals that have recognized, based on scientific or medical criteria, the safety and effectiveness of the drug or combination of drugs for treatment of the indication for which it has been prescribed unless two articles from major peer-reviewed professional medical journals have concluded, based on scientific or medical criteria, that the drug or combination of drugs is unsafe or ineffective or that the safety and effectiveness of the drug or combination of drugs cannot be determined for the treatment of the indication for which the drug or combination of drugs has been prescribed. Each article shall meet the uniform requirements for manuscripts submitted to biomedical journals established by the International Committee of Medical Journal Editors or shall have been published in a journal specified by the United States Department of Health and Human Services pursuant to 42 U.S.C. 1395x(t)(2)(B), as amended, as acceptable peer-reviewed medical literature. Peer-reviewed medical literature shall not include publications or supplements that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

(6) Within ninety days after July 15, 1998, the chief medical officer, if one is appointed pursuant to section 81-3201, and if not, then the Director of Regulation and Licensure, shall appoint a panel of five medical experts as follows: Three medical oncologists, upon the recommendation of the Nebraska Oncology Society, and two specialists in the management of patients being treated for human immunodeficiency virus or acquired immunodeficiency

syndrome, upon the recommendation of the Nebraska Medical Association. Members of the panel shall serve without compensation, except that they shall be reimbursed for their actual and necessary expenses pursuant to sections 81-1174 to 81-1177. When there is a question regarding acceptable medical literature support of an administration under this section, the panel, upon request of the Director of Insurance, shall review the use in dispute and the medical literature and shall advise the Director of Insurance whether an administration is medically appropriate for purposes of this section. A majority vote of the members of the panel shall be necessary to determine that coverage is medically appropriate. The panel may meet in person or by telephone conference call or other communication means acceptable to the Director of Insurance and the chief medical officer, if one is appointed pursuant to section 81-3201, and if not, then the Director of Regulation and Licensure.

(7) This section shall apply to policies, plans, or contracts for insurance as provided in subsections (1) and (2) of this section which are delivered, issued for delivery, or renewed in this state on or after July 15, 1998.

Sec. 4. Section 50-1302, Revised Statutes Supplement, 2000, is amended to read:

50-1302. (1) In each even-numbered year, the Government, Military and Veterans Affairs Committee of the Legislature shall prepare and publish a report pertaining to boards, commissions, and similar entities created by law, ~~by executive order, or by an agency director~~ that are made part of or are placed in the executive branch of state government. The committee may also include entities created by executive order or by an agency director. The report shall be submitted to the Legislature on December 1 of each even-numbered year.

(2) The report shall include, but not be limited to, the following:

(a) The name of each board, commission, or similar entity;

(b) The name of a parent agency, if any;

(c) The statutory citation, ~~executive order, or other reference to the or other~~ authorization for the creation of the board, commission, or entity;

(d) The number of members of the board, commission, or entity and how the members are appointed;

(e) The qualifications for membership on the board, commission, or entity;

(f) The number of times the board, commission, or entity is required to meet during the year and the number of times it actually met;

(g) Budget information of the board, commission, or entity for the two most recently completed fiscal years; and

(h) A brief summary of the accomplishments of the board, commission, or entity for the past two years.

Sec. 5. Section 60-2121, Reissue Revised Statutes of Nebraska, is amended to read:

60-2121. ~~As used in~~ For purposes of the Motorcycle Safety Education Act, unless the context otherwise requires:

(1) ~~Committee shall mean the Motorcycle Safety Advisory Committee;~~

~~(2) Department shall mean means the Department of Motor Vehicles;~~

~~(3) (2) Director shall mean means the Director of Motor Vehicles;~~ and

~~(4) (3) Fund shall mean means the Motorcycle Safety Education Fund created in section 60-2132.~~

Sec. 6. Section 71-1405, Revised Statutes Supplement, 2000, is amended to read:

71-1405. (1) Within thirty days after the date of the birth of any child born in this state with visible congenital deformities, the physician, midwife, or person acting as midwife, who ~~shall be~~ is in attendance upon such birth, shall prepare and file with the Department of Health and Human Services Finance and Support, a statement setting forth such visible congenital deformity. The form of such statement shall be prepared by the Director of Finance and Support, and shall be a part of the birth report furnished by the department.

(2) For purposes of this section, congenital deformities include a cleft lip, cleft palate, hernia, congenital cataract, or disability resulting from congenital or acquired heart disease, or any congenital abnormality or orthopedic condition that can be cured or materially improved. The orthopedic condition or deformity includes any deformity or disease of childhood generally recognized by the medical profession, and it includes deformities resulting from burns.

Sec. 7. Section 71-1901, Revised Statutes Supplement, 2001, is

amended to read:

71-1901. For purposes of sections 71-1901 to ~~71-1906.03~~ 71-1906.01:

- (1) Person includes a partnership, limited liability company, firm, agency, association, or corporation;
- (2) Child means an unemancipated minor;
- (3) Department means the Department of Health and Human Services;
- (4) Foster care means engaged in the service of exercising twenty-four-hour daily care, supervision, custody, or control over children, for compensation or hire, in lieu of the care or supervision normally exercised by parents in their own home. Foster care does not include casual care at irregular intervals or programs as defined in section 71-1910; and
- (5) Native American means a person who is a member of an Indian tribe or eligible for membership in an Indian tribe.

Sec. 8. Section 71-1902, Revised Statutes Supplement, 2001, is amended to read:

71-1902. Except as otherwise provided in this section, no person shall furnish or offer to furnish foster care for two or more children from different families without having in full force and effect a written license issued by the department upon such terms and conditions as may be prescribed by general rules and regulations adopted and promulgated by the department. The department may issue a time-limited, nonrenewable provisional license to an applicant who is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the time period stated in the license. The department may issue a time-limited, nonrenewable probationary license to a licensee who agrees to establish compliance with rules and regulations that, when violated, do not present an unreasonable risk to the health, safety, or well-being of the foster children in the care of the applicant. No license shall be issued pursuant to this section unless the applicant has completed the required hours of training in foster care as prescribed by the department.

All nonprovisional and nonprobationary licenses issued under sections 71-1901 to ~~71-1906.03~~ 71-1906.01 shall expire two years from the date of issuance and shall be subject to renewal under the same terms and conditions as the original license, except that if a licensee submits a completed renewal application thirty days or more before the license's expiration date, the license shall remain in effect until the department either renews the license or denies the renewal application. No license issued pursuant to this section shall be renewed unless the licensee has completed the required hours of training in foster care in the preceding twelve months as prescribed by the department. For the issuance or renewal of each nonprovisional and nonprobationary license, the department shall charge a fee of fifty dollars for a group home, fifty dollars for a child-caring agency, and fifty dollars for a child-placing agency. For the issuance of each provisional license and each probationary license, the department shall charge a fee of twenty-five dollars for a group home, twenty-five dollars for a child-caring agency, and twenty-five dollars for a child-placing agency. A license may be revoked for cause, after notice and hearing, in accordance with rules and regulations adopted and promulgated by the department.

For purposes of this section:

- (1) Foster family home means any home which provides twenty-four-hour care to children who are not related to the foster parent by blood or adoption;
- (2) Group home means a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home and which is designed to provide twenty-four-hour care for children and youth in a residential setting;
- (3) Child-caring agency means an organization which is incorporated for the purpose of providing care for children in buildings maintained by the organization for that purpose; and
- (4) Child-placing agency means an organization which is authorized by its articles of incorporation and by its license to place children in foster family homes.

Sec. 9. Section 71-1903, Revised Statutes Supplement, 2001, is amended to read:

71-1903. (1) Before issuance of a license under sections 71-1901 to ~~71-1906.03~~ 71-1906.01, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the service and the place where the foster care is to be furnished are such as to ensure the proper care and treatment of children. The department may 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 may request the Department of Health and Human Services Regulation and Licensure to conduct sanitation and health standards investigations pursuant to subsection (2) of this section. The Department of Health and Human Services 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. 10. Section 71-1904, Revised Statutes Supplement, 2001, is amended to read:

71-1904. The department shall adopt and promulgate rules and regulations pursuant to sections 71-1901 to ~~71-1906.03~~ 71-1906.01 for (1) the proper care and protection of children by licensees under such sections, (2) the issuance, suspension, and revocation of licenses to provide foster care, (3) the issuance, suspension, and revocation of probationary licenses to provide foster care, (4) the issuance, suspension, and revocation of provisional licenses to provide foster care, (5) the provision of training in foster care, which training shall be directly related to the skills necessary to care for children in need of out-of-home care, including, but not limited to, abused, neglected, dependent, and delinquent children, and ~~the training required by section 71-1906.03, and~~ (6) the proper administration of sections 71-1901 to ~~71-1906.03~~ 71-1906.01. The training required by subdivision (5) of this section shall be between twelve and twenty-four hours as determined by the department.

Sec. 11. Section 71-1905, Revised Statutes Supplement, 2001, is amended to read:

71-1905. Any person who violates any of the provisions of sections 71-1901 to ~~71-1906.03~~ 71-1906.01 shall be deemed guilty of a Class III misdemeanor.

Sec. 12. Section 71-3503, Reissue Revised Statutes of Nebraska, is amended to read:

71-3503. For purposes of the Radiation Control Act, unless the context otherwise requires:

(1) Radiation means ionizing radiation and nonionizing radiation as follows:

(a) Ionizing radiation means gamma rays, X-rays, alpha and beta particles, high-speed electrons, neutrons, protons, and other atomic or nuclear particles or rays but does not include sound or radio waves or visible, infrared, or ultraviolet light; and

(b) Nonionizing radiation means (i) any electromagnetic radiation which can be generated during the operations of electronic products to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment, other than ionizing electromagnetic radiation, and (ii) any sonic, ultrasonic, or infrasonic waves which are emitted from an electronic product as a result of the operation of an electronic circuit in such product and to such energy density levels as to present a biological hazard to occupational and public health and safety and the environment;

(2) Radioactive material means any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment means any manufactured product or device, component part of such a product or device, or machine or system which during operation can generate or emit radiation except devices which emit

radiation only from radioactive material;

(4) Sources of radiation means any radioactive material, any radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation means radiation in such quantity and under such circumstances as determined from time to time by rules and regulations adopted and promulgated by the department;

(6) Person means any individual, corporation, partnership, limited liability company, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing;

(7) Registration means registration with the department pursuant to the Radiation Control Act;

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

(9) Coordinator means the Director of Regulation and Licensure;

(10) Council means the radiation advisory council provided for in section 71-3506;

~~(11)~~ Electronic product means any manufactured product, device, assembly, or assemblies of such products or devices which, during operation in an electronic circuit, can generate or emit a physical field of radiation;

~~(12)~~ (11) License means:

(a) A general license issued pursuant to rules and regulations adopted and promulgated by the department without the filing of an application with the department or the issuance of licensing documents to particular persons to transfer, acquire, own, possess, or use quantities of or devices or equipment utilizing radioactive materials;

(b) A specific license, issued to a named person upon application filed with the department pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to the act, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of or devices or equipment utilizing radioactive materials;

(c) A license issued to a radon measurement specialist, radon measurement technician, radon mitigation specialist, radon mitigation technician, radon measurement business, or radon mitigation business; or

(d) A license issued to a medical radiographer or limited radiographer;

~~(13)~~ (12) Byproduct material means:

(a) Any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material; and

(b) The tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium or thorium solution extraction processes. Underground ore bodies depleted by such solution extraction operations do not constitute byproduct material;

~~(14)~~ (13) Source material means:

(a) Uranium or thorium or any combination thereof in any physical or chemical form; or

(b) Ores which contain by weight one-twentieth of one percent or more of uranium, thorium, or any combination thereof. Source material does not include special nuclear material;

~~(15)~~ (14) Special nuclear material means:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 and any other material that the United States Nuclear Regulatory Commission pursuant to the provisions of section 51 of the federal Atomic Energy Act of 1954, as amended, determines to be special nuclear material but does not include source material; or

(b) Any material artificially enriched by any material listed in subdivision ~~(15)(a)~~ (14)(a) of this section but does not include source material;

~~(16)~~ (15) Users of sources of radiation means:

(a) Physicians using radioactive material or radiation-generating equipment for human use;

(b) Natural persons using radioactive material or radiation-generating equipment for education, research, or development purposes;

(c) Natural persons using radioactive material or radiation-generating equipment for manufacture or distribution purposes;

(d) Natural persons using radioactive material or

radiation-generating equipment for industrial purposes; and

(e) Natural persons using radioactive material or radiation-generating equipment for any other similar purpose;

~~(17)~~ (16) Civil penalty means any monetary penalty levied on a licensee or registrant because of violations of statutes, rules, regulations, licenses, or registration certificates but does not include criminal penalties;

~~(18)~~ (17) Closure means all activities performed at a waste handling, processing, management, or disposal site, such as stabilization and contouring, to assure that the site is in a stable condition so that only minor custodial care, surveillance, and monitoring are necessary at the site following termination of licensed operation;

~~(19)~~ (18) Decommissioning means final operational activities at a facility to dismantle site structures, to decontaminate site surfaces and remaining structures, to stabilize and contain residual radioactive material, and to carry out any other activities to prepare the site for postoperational care;

~~(20)~~ (19) Disposal means the permanent isolation of low-level radioactive waste pursuant to the Radiation Control Act and rules and regulations adopted and promulgated pursuant to such act;

~~(21)~~ (20) Generate means to produce low-level radioactive waste when used in relation to low-level radioactive waste;

~~(22)~~ (21) High-level radioactive waste means:

(a) Irradiated reactor fuel;

(b) Liquid wastes resulting from the operation of the first cycle solvent extraction system or equivalent and the concentrated wastes from subsequent extraction cycles or the equivalent in a facility for reprocessing irradiated reactor fuel; and

(c) Solids into which such liquid wastes have been converted;

~~(23)~~ (22) Low-level radioactive waste means radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision ~~(13)(b)~~ (12)(b) of this section;

~~(24)~~ (23) Management of low-level radioactive waste means the handling, processing, storage, reduction in volume, disposal, or isolation of such waste from the biosphere in any manner, except the commercial disposal of low-level radioactive waste in a disposal facility, designated by the Central Interstate Low-Level Radioactive Waste Compact Commission;

~~(25)~~ (24) Source material mill tailings or mill tailings means the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from underground solution extraction processes, but not including underground ore bodies depleted by such solution extraction processes;

~~(26)~~ (25) Source material milling means any processing of ore, including underground solution extraction of unmined ore, primarily for the purpose of extracting or concentrating uranium or thorium therefrom and which results in the production of source material and source material mill tailings;

~~(27)~~ (26) Spent nuclear fuel means irradiated nuclear fuel that has undergone at least one year of decay since being used as a source of energy in a power reactor. Spent nuclear fuel includes the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

~~(28)~~ (27) Transuranic waste means radioactive waste containing alpha-emitting transuranic elements, with radioactive half-lives greater than five years, in excess of one hundred nanocuries per gram;

~~(29)~~ (28) Licensed practitioner means a person licensed to practice medicine, dentistry, podiatry, chiropractic, osteopathic medicine and surgery, or as an osteopathic physician;

~~(30)~~ (29) X-ray system means an assemblage of components for the controlled production of X-rays, including, but not limited to, an X-ray high-voltage generator, an X-ray control, a tube housing assembly, a beam-limiting device, and the necessary supporting structures. Additional components which function with the system are considered integral parts of the system;

~~(31)~~ (30) Limited radiographer means a person licensed to practice medical radiography pursuant to subsection (2) of section 71-3515.01. Limited radiographer does not include a person certified under section 71-176.01;

~~(32)~~ (31) Medical radiographer means a person licensed to practice medical radiography pursuant to subsection (1) of section 71-3515.01;

~~(33)~~ (32) Medical radiography means the application of radiation to humans for diagnostic purposes, including, but not limited to, adjustment or

manipulation of X-ray systems and accessories including image receptors, positioning of patients, processing of films, and any other action that materially affects the radiation dose to patients; and

~~(34)~~ (33) Licensed facility operator means any person or entity who has obtained a license under the Low-Level Radioactive Waste Disposal Act to operate a facility, including any person or entity to whom an assignment of a license is approved by the Department of Environmental Quality.

Sec. 13. Section 71-3504, Reissue Revised Statutes of Nebraska, is amended to read:

71-3504. (1) The Director of Regulation and Licensure shall be the coordinator of radiation control activities and may designate a Director of Radiation Control. The Director of Regulation and Licensure shall:

(a) Advise the Governor and agencies of the state on matters relating to radiation; and

(b) Coordinate regulatory activities of the state relating to radiation, including cooperation with other states and the federal government.

(2) The Director of Regulation and Licensure shall:

(a) Review before and after the holding of any public hearing required under the Administrative Procedure Act, prior to promulgation, the proposed rules and regulations of all agencies of the state relating to use and control of radiation to assure that such rules and regulations are consistent with rules and regulations of other agencies of the state;

(b) When he or she determines that proposed rules or regulations or parts thereof are inconsistent with rules and regulations of other agencies of the state, ~~consult with the radiation advisory council in~~ make an effort to resolve such inconsistencies. Upon notification ~~by the council~~ that such inconsistencies have not been resolved, the Governor may, after consultation with ~~the council~~ and the Director of Regulation and Licensure, find that the proposed rules and regulations or parts thereof are inconsistent with rules and regulations of other agencies of the state or the federal government and may issue an order to that effect, in which event the proposed rules and regulations or parts thereof shall not become effective. The Governor may, in the alternative, upon a similar determination, direct the appropriate agency or agencies to amend or repeal existing rules and regulations to achieve consistency with the proposed rules and regulations;

(c) Advise, consult, and cooperate with other agencies of the state, the federal government, other states, interstate agencies, political subdivisions, and other organizations concerned with control of sources of radiation; and

(d) Collect and disseminate information relating to the control of sources of radiation and maintain (i) a file of all registrants, license applications, issuances, denials, amendments, transfers, renewals, modifications, inspections, recommendations pertaining to radiation, suspensions, and revocations, (ii) a file of registrants possessing or using sources of radiation requiring registration under the Radiation Control Act and any administrative or judicial action pertaining to such registration, and (iii) a file of all rules and regulations relating to the regulation of sources of radiation, pending or promulgated, and proceedings on such rules and regulations thereon.

(3) The several agencies of the state and political subdivisions shall keep the coordinator fully and currently informed as to their activities relating to development of new uses and regulation of sources of radiation.

Sec. 14. Section 71-3505, Revised Statutes Supplement, 2000, is amended to read:

71-3505. Matters relative to radiation as they relate to occupational and public health and safety and the environment shall be a responsibility of the department. The department shall:

(1) Develop comprehensive policies and programs for the evaluation and determination of undesirable radiation associated with the production, use, storage, or disposal of radiation sources and formulate, adopt, promulgate, and repeal rules and regulations which may provide (a) for registration or licensure under section 71-3507 or 71-3509 and (b) for registration or licensure of (i) any other source of radiation, (ii) persons providing services for collection, detection, measurement, or monitoring of sources of radiation, including, but not limited to, radon and its decay products, (iii) persons providing services to reduce the effects of sources of radiation, (iv) persons practicing medical radiography, and (v) persons practicing industrial radiography, as specified by rule or regulation so as to reasonably protect occupational and public health and safety and the environment in a manner compatible with regulatory programs of the federal government. The department for identical purposes may also adopt and promulgate rules and regulations for the issuance of licenses, either general

or specific, to persons for the purpose of using, manufacturing, producing, transporting, transferring, receiving, acquiring, owning, or possessing any radioactive material. Such rules and regulations may prohibit the use of radiation for uses found by the department to be detrimental to occupational and public health or safety or the environment and shall carry out the purposes and policies set out in sections 71-3501 and 71-3502. Such rules and regulations shall not prohibit or limit the kind or amount of radiation purposely prescribed for or administered to a patient by doctors of medicine and surgery, dentistry, osteopathic medicine, chiropractic, podiatry, and veterinary medicine, while engaged in the lawful practice of such profession, or administered by other professional personnel, such as allied health personnel, medical radiographers, limited radiographers, nurses, and laboratory workers, acting under the supervision of a licensed practitioner. Violation of rules and regulations adopted and promulgated by the department pursuant to the Radiation Control Act shall be due cause for the suspension, revocation, or limitation of a license issued by the department. Any licensee may request a hearing before the department on the issue of such suspension, revocation, or limitation. Procedures for notice and opportunity for a hearing before the department shall be pursuant to the Administrative Procedure Act. The decision of the department may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act;

~~(2) Inform the council of any such rules and regulations at least thirty days prior to their adoption and consider any recommendations of the council;~~

~~(3)~~ Have the authority to accept and administer loans, grants, or other funds or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

~~(4)~~ (3) Encourage, participate in, or conduct studies, investigations, training, research, and demonstrations relating to the control of sources of radiation;

~~(5)~~ (4) Collect and disseminate health education information relating to radiation protection;

~~(6)~~ (5) Make its facilities available so that any person or any agency may request the department to review and comment on plans and specifications of installations submitted by the person or agency with respect to matters of protection and safety for the control of undesirable radiation;

~~(7)~~ (6) Be empowered to inspect radiation sources and their shieldings and surroundings for the determination of any possible undesirable radiation or violations of rules and regulations adopted and promulgated by the department and provide the owner, user, or operator with a report of any known or suspected deficiencies; and

~~(8)~~ (7) Collect a fee for emergency response or environmental surveillance, or both, offsite from each nuclear power plant equal to the cost of completing the emergency response or environmental surveillance and any associated report. In no event shall the fee for any nuclear power plant exceed the lesser of the actual costs of such activities or fifty-three thousand dollars per annum. Commencing July 1, 1997, the accounting division of the Department of Administrative Services shall recommend an inflationary adjustment equivalent which shall be based upon the Consumer Price Index for All Urban Consumers of the United States Department of Labor, Bureau of Labor Statistics, and shall not exceed five percent per annum. Such adjustment shall be applied to the annual fee for nuclear power plants. The fee collected shall be credited to the Department of Health and Human Services Regulation and Licensure Cash Fund. This fee shall be used solely for the purpose of defraying the direct costs of the emergency response and environmental surveillance at Cooper Nuclear Station and Fort Calhoun Station conducted by the department. The department may charge additional fees when mutually agreed upon for services, training, or equipment that are a part of or in addition to matters in this section.

Sec. 15. Section 71-3508.01, Reissue Revised Statutes of Nebraska, is amended to read:

71-3508.01. (1) Any radioactive materials license issued or renewed after August 30, 1987, for any activity which results in the production of byproduct material as defined in subdivision ~~(13)(b)~~ (12)(b) of section 71-3503 shall contain such terms and conditions as the department determines to be necessary to assure that prior to termination of such license:

(a) The licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the department which shall be equivalent, to the extent practicable, or more stringent than those of the federal Nuclear Regulatory Commission for sites (i) at which ores are processed primarily for their source material content and (ii) at which such

byproduct material or mill tailings are deposited; and

(b) Ownership of any disposal site and such byproduct material or mill tailings which resulted from the licensed activity will, subject to subsection (2) of this section, be transferred to (i) the United States or (ii) this state if the state exercises the option to acquire land used for the disposal of such byproduct material or mill tailings. Any license which is in effect on August 30, 1987, and which is subsequently terminated without renewal shall comply with subdivisions (1)(a) and (b) of this section upon termination.

(2)(a) The department shall require by rule, regulation, or order that prior to the termination of any license which is issued after August 30, 1987, title to the land, including any interests therein, other than land held in trust by the United States for any Indian tribe or owned by an Indian tribe subject to a restriction against alienation imposed by the United States or land already owned by the United States or by the state, which is used pursuant to such license for the disposal of byproduct material or source material mill tailings will be transferred to (i) the United States or (ii) this state, unless the federal Nuclear Regulatory Commission determines prior to such termination that transfer of title to such land and such byproduct material or mill tailings is not necessary or desirable to protect the occupational and public health and safety and the environment or to minimize danger to life or property.

(b) If transfer to the state of title to such byproduct material or mill tailings and land is required, the state may assume title, following the federal Nuclear Regulatory Commission's determination that the licensee has complied with applicable standards and requirements under the license, and the department shall maintain the byproduct material or mill tailings and land in such manner as will protect the occupational and public health and safety and the environment.

(c) The department may undertake such monitoring, maintenance, and emergency measures as are necessary to protect the occupational and public health and safety and the environment for those materials and property to which the state has assumed title pursuant to this section.

(d) The transfer of title to the United States or this state shall not relieve any licensee of liability for any fraudulent or negligent acts done prior to such transfer.

(e) Title transferred pursuant to this section shall be transferred without cost to the United States or this state other than the administrative and legal costs incurred in carrying out such transfer.

(3) In the licensing and regulation of byproduct material and source material mill tailings or of any activity which results in the production of byproduct material or mill tailings, the department shall require compliance with applicable standards adopted and promulgated by the department which are equivalent, to the extent practicable, or more stringent than standards adopted and enforced by the federal Nuclear Regulatory Commission for the same purpose, including requirements and standards promulgated by the federal Environmental Protection Agency.

Sec. 16. Section 71-4609, Revised Statutes Supplement, 2000, is amended to read:

71-4609. (1) The commission shall administer the Uniform Standard Code for Manufactured Homes and Recreational Vehicles. The commission may adopt and promulgate, amend, alter, or repeal general rules and regulations of procedure for (a) administering the provisions of the code, (b) issuing seals, (c) obtaining statistical data respecting the manufacture and sale of manufactured homes and recreational vehicles, and (d) prescribing means, methods, and practices to make effective such provisions.

(2) ~~The commission shall appoint an advisory committee of seven members, which committee may review the rules, regulations, and standards of the commission pertaining to manufactured homes and recreational vehicles and recommend changes. The committee shall represent a cross section of those having an extensive interest in manufactured home or recreational vehicle body and frame design and construction or plumbing, heating, or electrical systems. The committee shall serve at the pleasure of the commission. Members of the committee who were appointed prior to May 1, 1998, shall continue to serve until their successors are appointed by the commission.~~

~~(3)~~ The commission shall refuse to issue a seal to any manufacturer or other person for any manufactured home or recreational vehicle found to be not in compliance with its standards governing body and frame design and construction or plumbing, heating, or electrical systems for manufactured homes or recreational vehicles or for which fees have not been paid. Except in case of failure to pay the required fees, any such manufacturer or other person may request a hearing before the commission on the issue of such

refusal. Procedures for notice and opportunity for a hearing before the commission shall be pursuant to the Administrative Procedure Act. The refusal by the commission may be appealed, and the appeal shall be in accordance with the act.

~~(4)~~ (3) The issuance of seals may be suspended or revoked as to any manufacturer or other person who has not complied with any provision of the code or with any rule, regulation, or standard adopted and promulgated under the code or who is convicted of violating section 71-4608, and issuance of the seals shall not be resumed until such manufacturer or other person submits sufficient proof that the conditions which caused the lack of compliance or the violation have been remedied. Any manufacturer or other person may request a hearing before the commission on the issue of such suspension or revocation. Procedures for notice and opportunity for a hearing before the commission shall be pursuant to the Administrative Procedure Act. The suspension or revocation by the commission may be appealed, and the appeal shall be in accordance with the act.

~~(5)~~ (4) The commission may conduct hearings and presentations of views consistent with the regulations adopted by the United States Department of Housing and Urban Development and adopt and promulgate such rules and regulations as are necessary to carry out this function.

~~(6)~~ (5) The commission shall establish a monitoring inspection fee in an amount approved by the United States Secretary of Housing and Urban Development, which fee shall be an amount paid to the commission by the manufacturer for each manufactured-home seal issued in the state. An additional monitoring inspection fee established by the United States Secretary of Housing and Urban Development shall be paid by the manufacturer to the secretary who shall distribute the fees collected from all manufactured-home manufacturers based on provisions developed and approved by the secretary.

Sec. 17. Section 71-4903, Reissue Revised Statutes of Nebraska, is amended to read:

71-4903. The Department of Health and Human Services shall:

(1) ~~With the advice and consent of the renal disease advisory committee, develop~~ Develop standards for determining eligibility for care and treatment under this program and establish standards and qualifications of those patients unable to pay for treatment of chronic renal disease on a continuing basis. Such standards shall require that an individual:

(a) Shall be a bona fide resident of the State of Nebraska;

(b) Shall not be able to pay the total cost of such needed care and treatment without depriving himself or herself or those legally dependent upon him or her for their necessities of life;

(c) Shall not have deprived himself or herself, directly or indirectly, of any property for the purpose of qualifying for assistance under the provisions of sections 71-4901 to 71-4905;

(d) Shall not have relatives legally responsible to provide such care and treatment who refuse or neglect to provide such care and treatment in whole or in part without good cause; and

(e) Shall be a proper candidate for such care and treatment, including willingness of that person to receive such care and treatment;

(2) Assist in the development and expansion of programs for the care and treatment of persons suffering from chronic renal diseases, including dialysis, transplant, and other medical procedures and techniques which will have a life-saving effect in the care and treatment of persons suffering from these diseases;

(3) Assist in the development of programs for the prevention of chronic renal diseases;

(4) Extend financial assistance to persons suffering from chronic renal diseases in obtaining the medical, nursing, pharmaceutical, and technical services necessary in caring for such diseases, including the renting of home dialysis equipment, and extend financial assistance to donors to persons suffering from chronic renal diseases in obtaining the medical, nursing, pharmaceutical, and technical services necessary in caring for such donors;

(5) Assist in equipping dialysis centers and the planning of such on the basis of consultation with the comprehensive health planning office; and

(6) Institute and carry on an educational program among physicians, hospitals, public health departments, and the public concerning chronic renal diseases, including the dissemination of information and the conducting of educational programs concerning the prevention of chronic renal diseases and the methods for the care and treatment of persons suffering from these diseases.

Sec. 18. Section 75-366, Reissue Revised Statutes of Nebraska, is

amended to read:

75-366. For the purpose of enforcing Chapter 75, article 3, any officer of the carrier enforcement division of the Nebraska State Patrol or any officer of the Nebraska State Patrol may, upon demand, inspect the accounts, records, and equipment of any carrier or shipper. The carrier enforcement division shall enforce the provisions of Chapter 75, article 3. To promote uniformity of enforcement, the carrier enforcement division shall cooperate and consult with the Public Service Commission, and the Division of Motor Carrier Services. ~~and the Motor Carrier Advisory Council.~~ For the purpose of enforcing sections 75-363 and 75-364, any officer of the carrier enforcement division of the Nebraska State Patrol or any officer of the Nebraska State Patrol shall have the authority of special agents of the Federal Highway Administration.

Sec. 19. Section 77-27,187, Revised Statutes Supplement, 2000, is amended to read:

77-27,187. Sections 77-27,187 to ~~77-27,196~~ 77-27,195 shall be known and may be cited as the Employment Expansion and Investment Incentive Act.

Sec. 20. Section 79-1312, Reissue Revised Statutes of Nebraska, is amended to read:

79-1312. Sections 79-1312 to ~~79-1327~~ 79-1325 shall be known and may be cited as the Nebraska Educational Telecommunications Act.

Sec. 21. Section 81-177, Reissue Revised Statutes of Nebraska, is amended to read:

81-177. Each state agency operating or managing state-owned buildings, utilities, or grounds shall make a detailed inspection of facilities under its care to determine accurately what renewal work items exist and the probable cost and time required for doing the work. A detailed report of the findings shall be made to the Governor, listing for each building, utility, or grounds improvement, the individual work items with estimated quantities and unit prices. Such report shall also include a listing of projects needed in state-owned structures to accommodate persons with handicaps as provided in sections 81-5,147 ~~to 81-5,150~~ and 81-5,148. The report shall state which work items are recommended to be done under contract and which are proposed to be done by agency forces with an estimate of hours of labor and labor costs. The Governor shall refer the report to the task force for its study and recommendations pursuant to section 81-178.

Sec. 22. Section 81-5,147, Revised Statutes Supplement, 2000, is amended to read:

81-5,147. The State Fire Marshal, ~~with the advice of the Accessibility Advisory Committee,~~ shall adopt and promulgate:

(1) Standards, specifications, and exclusions which are consistent with the most current uniform guidelines and standards set by the federal Americans with Disabilities Act of 1990, as amended, for (a) buildings and facilities which are newly constructed for first occupancy and (b) alterations of existing buildings and facilities used by the public. For purposes of this section, alterations of an existing building or facility used by the public shall include remodeling, renovation, rehabilitation, reconstruction, historic restoration, changes or rearrangement in structural parts or elements, and changes or rearrangements in the plan or configuration of the height of walls or partitions. Normal maintenance, reroofing, painting, wallpapering, asbestos removal, or changes to mechanical and electrical systems shall not be considered alterations; and

(2) Standards and specifications which are consistent with the most current uniform guidelines and standards set by the federal Fair Housing Act of 1968, as adopted by the State of Nebraska, for new constructed covered multifamily dwellings as defined in section 20-319.

Sec. 23. Section 81-8,307, Revised Statutes Supplement, 2000, is amended to read:

81-8,307. (1) The Nebraska Lewis and Clark Bicentennial Commission is established and has the following members:

(a) A chairperson, a vice-chairperson, and six other members appointed by the Governor, at least one of whom shall be an enrolled member of a Nebraska Indian tribe and one of whom shall be an African American. All appointed members shall serve three-year terms and may be reappointed. All appointed members shall have an interest in the history of the Lewis and Clark expedition;

(b) The Director of the Nebraska State Historical Society or his or her designee;

(c) The secretary of the Game and Parks Commission or his or her designee;

(d) The head of the Travel and Tourism Division of the Department of Economic Development or his or her designee;

(e) The President of the University of Nebraska or his or her designee; and

(f) The executive director of the Commission on Indian Affairs or his or her designee.

(2) The Nebraska Lewis and Clark Bicentennial Commission shall coordinate and promote the observance of Nebraska's bicentennial commemoration of the Lewis and Clark expedition. ~~The commission shall seek designation as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code.~~ The commission may:

(a) Cooperate with national, regional, statewide, and local events promoting the bicentennial;

(b) Plan, assist, coordinate, or conduct bicentennial events;

(c) Engage in fundraising activities, including revenue-earning enterprises and the solicitation of grants, gifts, and donations;

(d) Promote public education concerning the Lewis and Clark expedition;

(e) Coordinate interagency participation in the observation and work with appropriate federal entities such as the National Park Service, the United States Forest Service, and the United States Army;

(f) Appoint various local and regional advisory committees; and

(g) Perform any other related duties.

(3) The Nebraska Lewis and Clark Bicentennial Fund is created. All money collected by the commission shall be remitted to the State Treasurer for credit to the fund. Money collected may include money from revenue-earning enterprises, grants, gifts, bequests, or donations, appropriations by the Legislature, and interest earned. Money in the fund shall be used only for the purposes described in this section. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

(4) Members of the Nebraska Lewis and Clark Bicentennial Commission shall serve without compensation but shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

Sec. 24. Section 81-1417, Reissue Revised Statutes of Nebraska, is amended to read:

81-1417. (1) The Nebraska Commission on Law Enforcement and Criminal Justice shall consist of ~~nineteen~~ eighteen members. The membership shall include the Governor, the Attorney General, the Superintendent of Law Enforcement and Public Safety, the Director of Correctional Services, the chief of police or director of public safety of a city of more than two hundred thousand population, the chief of police or director of public safety of a city of less than two hundred thousand population, ~~a district court judge,~~ a county sheriff, a county attorney, a county commissioner, a mayor or city manager, a person involved with the control or prevention of juvenile delinquency, the chairperson of the Nebraska Police Standards Advisory Council, and six members, at least one of whom shall be a woman, from the public at large. The seven members of the council shall also be considered members of the commission acting as a special committee of the commission with limited powers and duties. A member of the commission may serve concurrently as a member of the council. The term of the district court judge serving on the effective date of this act terminates on such date.

(2) The Governor may increase the membership of the commission at any time if such increase is necessary to comply with the provisions of any federal act providing funds for law enforcement or delinquency prevention purposes. Such members of the commission appointed by the Governor shall serve for terms of six years from January 1 next succeeding their appointments.

(3) Except for the Governor, the Attorney General, the Superintendent of Law Enforcement and Public Safety, and the Director of Correctional Services, the members of the commission shall be appointed by the Governor. The membership of the commission shall represent varying geographic areas and large and small governmental subdivisions.

Sec. 25. Section 83-4,124, Reissue Revised Statutes of Nebraska, is amended to read:

83-4,124. It is hereby declared to be the policy of the State of Nebraska that all criminal detention facilities and juvenile detention facilities in the state shall conform to certain minimum standards of construction, maintenance, and operation.

To further such policy, the Jail Standards Board is hereby created. For administrative and budgetary purposes such board shall be within the Nebraska Commission on Law Enforcement and Criminal Justice. The board shall consist of the Director of Correctional Services or, if the Director of Correctional Services chooses not to serve on the board, a person appointed by

the director to serve in lieu of the director, the State Fire Marshal or his or her designee, and ~~ten~~ nine appointive members, three of whom shall be from each of the three congressional districts, and one of whom shall be appointed at large, to be appointed by the Governor. The appointive members of the board shall be appointed from recommendation lists containing at least three names submitted by ~~the Nebraska District Court Judges Association~~, the Nebraska Association of County Officials, the Nebraska County Sheriffs Association, the Nebraska State Bar Association, and the Police Officers Association of Nebraska. The appointive members of the board shall consist of: (1) ~~One district judge~~; (2) ~~two~~ Two county commissioners or supervisors; ~~(3) (2) one county sheriff~~; ~~(4) (3) one municipal police chief~~; ~~(5) (4) one member of the Nebraska State Bar Association~~; ~~(6) (5) two lay people~~; ~~(7) (6) one person who at the time of his or her appointment is serving as an administrator responsible for the operation and maintenance of a juvenile detention facility~~; and ~~(8) (7) one person who at the time of his or her appointment is serving as an administrator or jailer responsible for the operation and maintenance of a criminal detention facility having an average daily population of greater than fifty persons.~~ The term of the district judge serving on the effective date of this act terminates on such date.

The terms of office for all members initially appointed shall be three years. Upon completion of the initial term of the board, the Governor shall appoint one member from each congressional district for a term of one year, one member from each congressional district for a term of two years, and one member from each congressional district for a term of three years. Succeeding appointees shall be representative of the same congressional district and shall be appointed for terms of three years. ~~The at-large member shall be appointed for a term of three years.~~ An appointee to a vacancy occurring from an unexpired term shall serve out the term of his or her predecessor. Members whose terms have expired shall continue to serve until their successors have been appointed.

The members of the board shall serve without compensation, but they shall be reimbursed for their actual expenses while engaged in the performance of their official duties as provided in sections 81-1174 to 81-1177.

Sec. 26. Original sections 44-788, 60-2121, 71-3503, 71-3504, 71-3508.01, 71-4903, 75-366, 79-1312, 81-177, 81-1417, and 83-4,124, Reissue Revised Statutes of Nebraska, sections 2-2626, 20-139, 50-1302, 71-1405, 71-3505, 71-4609, 77-27,187, 81-5,147, and 81-8,307, Revised Statutes Supplement, 2000, and sections 71-1901 to 71-1905, Revised Statutes Supplement, 2001, are repealed.

Sec. 27. The following sections are outright repealed: Sections 60-2122 to 60-2124, 71-1401 to 71-1404, 71-1744, 71-1759, 71-3506, 71-4902, 75-387, 75-388, 77-27,196, 79-1326, 81-5,150, and 81-5,154 to 81-5,156, Reissue Revised Statutes of Nebraska, sections 71-533 to 71-538, 71-1565, 71-1758, 71-1906.02, 71-8606, 79-1327, 80-323, 80-324, and 81-5,149, Revised Statutes Supplement, 2000, and section 71-1906.03, Revised Statutes Supplement, 2001.