

LEGISLATIVE BILL 121

Approved by the Governor June 2, 1993

Introduced by Kristensen, 37; Beutler, 28; Landis, 46; Lindsay, 9;
Wickersham, 49

AN ACT relating to limited liability companies; to amend sections 1-126, 1-133, 1-135, 1-136, 1-138, 1-152, 1-154, 1-155, 1-157, 1-158, 1-160, 1-161, 1-162, 1-164.02, 1-168, 2-953, 2-1084, 2-1810, 2-2303, 2-2446, 2-2601, 2-2701.01, 2-3002, 2-3102, 2-3302, 2-3403, 2-3605, 2-3606, 2-3741, 2-3742, 2-3817, 2-3914, 2-4002, 2-4204, 2-4603, 2-4802, 3-101, 3-150, 3-301, 3-402, 8-140, 8-148.02, 8-364, 8-409.01, 8-501, 8-902, 8-903, 8-1001, 8-1005, 8-1101, 8-1103, 8-1109, 8-1118, 8-1202, 8-1301, 8-1501, 8-1511, 8-1714, 8-1722, 9-207.01, 9-235.01, 9-316, 9-329.01, 9-329.02, 9-329.03, 9-329.04, 9-614, 9-616, 9-630, 9-632, 9-642, 9-642.01, 12-606, 12-607, 12-609, 12-613, 12-614, 12-1108, 13-203, 14-2004, 15-203, 15-816, 15-819, 16-205, 17-926, 18-306, 18-307, 18-308, 18-1916, 18-1917, 18-1918, 18-2103, 18-2412, 18-2709, 20-145, 20-314, 21-1311, 21-1401, 21-1771, 21-1774, 21-1782, 21-1904, 21-2004, 21-2102, 21-2108, 21-2222, 21-2434, 21-2436, 21-2444, 23-114.05, 23-2809, 23-3594, 23-3595, 25-403.02, 25-535, 25-1056, 25-1801, 25-1804, 25-21.161, 25-2803, 28-425, 28-613, 28-807, 28-1210, 28-1213, 28-1229, 28-1240, 28-1250, 28-1251, 28-1323, 28-1324, 28-1420, 28-1421, 28-1422, 28-1423, 29-1507, 29-3513, 30-2701, 31-902, 36-213, 36-213.01, 37-431, 37-719, 37-1207, 39-6.161, 39-6.188, 39-807, 39-808, 39-892, 39-1302, 39-1638, 39-1816, 39-2602, 42-364.11, 43-1503, 44-377, 44-392, 44-3.107.01, 44-404, 44-407.10, 44-759, 44-760, 44-1201, 44-1602, 44-1603, 44-1607.02, 44-2610, 44-2617, 44-2702, 44-2803, 44-2821, 44-2837; 44-2902, 45-114, 45-120, 45-128, 45-133, 45-142, 45-145, 45-153, 45-350, 45-607, 46-296, 46-505, 46-1001, 46-1015, 48-115, 48-145.01, 48-162, 48-175, 48-220, 48-402, 48-501.01, 48-603, 48-604, 48-652, 48-658, 48-801, 48-902, 48-1002, 48-1220, 48-1702, 48-1704, 49-801, 49-1407, 49-1408, 49-1438, 49-1496, 49-1546, 52-801, 52-802, 52-803, 52-804, 52-805, 52-1001, 52-1309, 52-1401, 53-149, 54-102, 54-106, 54-108, 54-115, 54-126, 54-133.01, 54-155, 54-156, 54-169, 54-201, 54-208, 54-609, 54-610, 54-1158, 54-1509, 54-1514, 54-1703, 54-2001, 57-301, 57-401, 57-601, 57-701, 57-801, 57-903, 57-1201, 59-804, 59-805, 59-806, 59-807, 59-808, 59-809, 59-810, 59-811, 59-812, 59-813, 59-814, 59-815, 59-816, 59-818,

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Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 81, Ninety-third Legislature, First Session, 1993, sections 9-1,104 and 9-834, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 1 and 53, respectively, Legislative Bill 138, Ninety-third Legislature, First Session, 1993, and sections 1-201, 3-307, and 9-402, Uniform Commercial Code; to adopt the Limited Liability Company Act; to provide for taxation of member income; to harmonize provisions; and to repeal the original sections.

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

Section 1. Sections 1 to 45 of this act shall be known and may be cited as the Limited Liability Company Act.

Sec. 2. A limited liability company may be organized pursuant to the Limited Liability Company Act for any lawful purpose other than banking or insurance. A limited liability company organized pursuant to the act shall be deemed to be a syndicate for purposes of Article XII, section 8, of the Constitution of Nebraska.

Sec. 3. A limited liability company organized pursuant to and existing under the Limited Liability Company Act may:

- (1) Sue, be sued, complain, and defend in its name;
- (2) Purchase, take, receive, lease, and otherwise acquire, own, hold, improve, use, and otherwise deal in and with real or personal property or an interest in real or personal property wherever situated;
- (3) Sell, convey, mortgage, pledge, lease, exchange, transfer, and otherwise dispose of all or any part of its property and assets;
- (4) Lend money to and otherwise assist its members;
- (5) Purchase, take, receive, subscribe for, and otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, and otherwise dispose of, use, and deal in and with shares or other interests in or obligations of other limited liability companies, domestic or foreign corporations, associations, general or limited partnerships, or individuals or direct or indirect obligations of the United States or of any government, state, territory, governmental district, or municipality or of any instrumentality thereof;
- (6) Make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the limited liability company may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any part of its property, franchises, and income;
- (7) Lend money for its proper purposes, invest and reinvest its funds, and take and hold real property and personal property for the payment of funds loaned or invested;
- (8) Conduct its business, carry on its operations, and have and exercise the powers granted by the act in any state, territory, district, or possession of the United States or in any foreign country;
- (9) Elect or appoint managers and agents of the limited liability company and define their duties and fix their compensation;

(10) Make and alter operating agreements, not inconsistent with its articles of organization or with the laws of this state, for the administration and regulation of the affairs of the limited liability company;

(11)(a) Indemnify a member, manager, or former member or manager of the limited liability company against expenses actually and reasonably incurred in connection with the defense of a civil or criminal action, suit, or proceeding in which he or she is made a party by reason of being or having been a member or manager except in matters as to which he or she is adjudged in the action, suit, or proceeding to be liable for negligence or misconduct in the performance of duty and (b) make any other indemnification that is authorized by the articles of organization or by an article of the operating agreement or resolution adopted by the members after notice;

(12) Cease its activities and surrender its certificate of organization;

(13) Have and exercise all powers necessary or convenient to effect any or all of the purposes for which the limited liability company is organized;

(14) Become a member of a general partnership, limited partnership, joint venture or similar association, or other limited liability company; and

(15) Render professional services within or without this state.

Sec. 4. (1) The words limited liability company or the abbreviation L.L.C. shall be the last words of the name of every limited liability company, and the limited liability company name may not:

(a) Contain a word or phrase which indicates or implies that it is organized for a purpose other than one or more of the purposes contained in its articles of organization; or

(b) Be the same as or deceptively similar to the name of a limited liability company or corporation existing under the laws of this state or a foreign limited liability company or corporation authorized to transact business in this state or a name the exclusive right to which is reserved in any manner provided under the laws of this state.

(2) Omission of the words limited liability company or the abbreviation L.L.C. in the use of the name of the limited liability company shall render any person who participates in the omission or who knowingly acquiesces in such omission liable for indebtedness, damage, or liability caused by the omission.

(3) Identification as a limited liability company shall appear after the name of the limited liability company on all correspondence, stationery, checks, invoices, and documents executed by the limited liability company.

Sec. 5. Two or more persons may form a limited liability company by signing, verifying, and delivering articles of organization in duplicate to the Secretary of State. If the number of members of a limited liability company is reduced to less than two through the death,

retirement, resignation, expulsion, bankruptcy, or dissolution of one or more members, the limited liability company may, through the remaining member, within ninety days of such event, admit one or more new members who shall have authority under section 22 of this act to consent to the continuation of the business of the limited liability company.

Sec. 6. (1) The articles of organization of a limited liability company shall set forth:

(a) The name of the limited liability company;
 (b) The period of its duration, which may not exceed thirty years from the date of filing with the Secretary of State;

(c) The purpose for which the limited liability company is organized;

(d) The address of its principal place of business in this state and the name and address of its registered agent in this state;

(e) The total amount of cash contributed to capital and a description and agreed value of property other than cash contributed;

(f) The total additional contributions agreed to be made by all members and the times at which or events upon the happening of which the contributions will be made;

(g) The right, if given, of the members to admit additional members and the terms and conditions of the admission;

(h) The right, if given, of the remaining members of the limited liability company to continue the business on the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member or on the occurrence of any other event which terminates the continued membership of a member in the limited liability company;

(i) If the limited liability company is to be managed by a manager, the name and address of the manager who is to serve as manager until the first annual meeting of members or until his or her successor is elected and qualified, and if the management of a limited liability company is reserved to the members, the names and addresses of the members; and

(j) Any other provision not inconsistent with law which the members elect to set out in the articles of organization for the regulation of the internal affairs of the limited liability company, including any provisions which are required or permitted to be set out in the operating agreement of the limited liability company.

(2) It shall not be necessary to set out in the articles of organization any of the powers enumerated in the Limited Liability Company Act.

Sec. 7. (1) Duplicate originals of the articles of organization of a limited liability company shall be delivered to the Secretary of State along with the filing fees required by section 34 of this act. If the Secretary of State finds that the articles of organization conform to law, he or she shall:

(a) Endorse on each of the duplicate originals the word filed and the month, day, and year of the filing thereof;

(b) File one of the duplicate originals in his or her office;

and

(c) Issue a certificate of organization to which he or she shall affix the other duplicate original.

(2) The certificate of organization, together with a duplicate original of the articles of organization affixed to it by the Secretary of State, shall be returned to the principal office of the limited liability company or to its representative.

Sec. 8. (1) Upon the issuance of the certificate of organization, the limited liability company shall be considered organized. The certificate of organization shall be conclusive evidence that all conditions precedent required to be performed by the members have been complied with and that the limited liability company has been legally organized pursuant to the Limited Liability Company Act except as against this state in a proceeding to cancel or revoke the certificate of organization or for involuntary dissolution of the limited liability company.

(2) A limited liability company shall not transact business or incur indebtedness, except business or indebtedness that is incidental to its organization or to obtaining subscriptions for or payment of contributions, until the Secretary of State has issued a certificate of organization.

Sec. 9. A limited liability company shall have and continuously maintain in this state:

(1) A registered office which may but need not be the same as its place of business; and

(2) A registered agent having a business office identical with the registered office, which agent may be an individual resident in this state, a domestic corporation, or a foreign corporation authorized to transact business in this state.

Sec. 10. (1) A limited liability company may change its registered office or registered agent upon filing with the Secretary of State a statement setting forth:

(a) The name of the limited liability company;

(b) The address of its current registered office;

(c) If the address of its registered office is to be changed, the new address;

(d) The name of its current registered agent;

(e) If its registered agent is to be changed, the name of the successor registered agent;

(f) That the address of its registered office and the address of the business office of its registered agent, as changed, will be identical; and

(g) That the change was authorized by affirmative vote of a majority of the members of the limited liability company.

(2) The statement shall be verified and delivered to the Secretary of State. If the Secretary of State finds that the statement conforms to the requirements of this section, he or she shall file the statement in his or her office, and upon filing, the change of address of the registered office or the appointment of a new registered agent shall be

effective.

(3) A registered agent may resign as registered agent of a limited liability company upon filing a written notice, executed in duplicate, with the Secretary of State who shall mail a copy thereof to the limited liability company at its registered office. The appointment of the registered agent shall terminate upon the expiration of thirty days after receipt of notice by the Secretary of State.

Sec. 11. If a limited liability company has failed for thirty days to appoint and maintain a registered agent in this state, has failed for thirty days after change of its registered office or registered agent to file with the Secretary of State a statement of the change, or has failed to pay any fee or tax required by section 34 of this act, it shall be deemed to be transacting business within this state without authority and to have forfeited any franchises, rights, or privileges acquired under the laws of this state. The Secretary of State shall mail a notice of failure to comply to the limited liability company at its registered office by certified mail. Unless the limited liability company comes into compliance within thirty days after the delivery of notice, the limited liability company shall be deemed to be defunct and to have forfeited its certificate of organization. A defunct limited liability company may at any time within one year after the forfeiture of its certificate be revived and reinstated by filing any necessary documents, paying any fees or taxes, and paying an additional fee of one hundred dollars. A revived and reinstated limited liability company shall have the same force and effect as if its existence had not been defunct.

Sec. 12. (1) The members and managers of a limited liability company shall not be liable under a judgment, decree, or order of a court or in any other manner for a debt, obligation, or liability of the limited liability company. Except as otherwise specifically set forth in the Limited Liability Company Act, no member, manager, employee, or agent of a limited liability company shall be personally liable under any judgment, decree, or order of any court, agency, or other tribunal in this or any other state, or on any other basis, for any debt, obligation, or liability of the limited liability company.

(2) The members of a limited liability company shall be liable for unpaid taxes when management is reserved to the members. If management is not reserved to the members, the managers of a limited liability company shall be liable for taxes in the same manner as a corporate officer is liable for taxes.

Sec. 13. (1) The registered agent appointed by a limited liability company shall be an agent of the limited liability company upon whom any process, notice, or demand required or permitted by law to be served may be served.

(2) If a limited liability company fails to appoint or maintain a registered agent in this state or if the registered agent cannot with reasonable diligence be found at the registered office, the Secretary of State shall be an agent of the limited liability company upon whom any process, notice, or demand may be served. Service on the Secretary of

State shall be made by delivering to and leaving with the Secretary of State or with any clerk of his or her office duplicate copies of the process, notice, or demand. If a process, notice, or demand is served on the Secretary of State, he or she shall cause one of the copies to be sent by registered or certified mail to the limited liability company at its registered office. Any service on the Secretary of State shall be returnable in not less than thirty days.

(3) The Secretary of State shall keep a record of all processes, notices, and demands served upon him or her pursuant to this section and shall record the time of service and his or her action with reference thereto.

(4) This section shall not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a limited liability company in any other manner now or hereafter permitted by law.

Sec. 14. Contributions to capital by a member of a limited liability company may consist of any tangible or intangible property or benefit to the company.

Sec. 15. Unless the articles of organization provide to the contrary, management of a limited liability company shall be vested in each member in proportion to his or her contribution to the capital of the limited liability company as adjusted from time to time to properly reflect any additional contribution or withdrawal by another member. If the articles of organization provide for the management of the limited liability company by a manager, the manager shall be elected annually by the members in a manner provided in the operating agreement. The manager shall also hold the offices and have the responsibilities accorded to him or her by the members and as set out in the operating agreement.

Sec. 16. Debt shall not be contracted and liability shall not be incurred by or on behalf of a limited liability company except by a manager if management of the limited liability company has been vested in a manager or by any member if management of the limited liability company is retained by the members.

Sec. 17. Real and personal property owned or purchased by a limited liability company shall be held and owned and conveyance shall be made in the name of the limited liability company. Instruments and documents providing for the acquisition, mortgage, or disposition of property of the limited liability company shall be valid and binding upon the limited liability company if executed by a manager of a limited liability company having a manager or by a member of a limited liability company in which management has been retained in the members.

Sec. 18. A limited liability company may divide the profits of its business and distribute the profits to the members of the limited liability company upon the basis stipulated in the operating agreement if, after distribution is made, the assets of the limited liability company are in excess of all liabilities of the limited liability company other than liabilities to members on account of their contributions to capital.

Sec. 19. (1) A member shall not receive out of limited

liability company property any part of his or her contributions to capital until:

(a) All liabilities of the limited liability company other than liabilities to members on account of their contributions to capital have been paid or there remains property of the limited liability company sufficient to pay them;

(b) At least two-thirds of the members or such greater number as specified in the articles of organization have consented unless the return of the contributions to capital may be rightfully demanded pursuant to law; or

(c) The articles of organization are canceled or amended to set out the withdrawal or reduction.

(2) Subject to subsection (1) of this section, a member may demand the return of his or her contributions to capital:

(a) On the dissolution of the limited liability company; or

(b) After the member has given all other members of the limited liability company six months prior notice in writing if no other time limit is specified in the articles of organization for the dissolution of the limited liability company.

(3) In the absence of a statement in the articles of organization to the contrary or the consent of all members of the limited liability company, a member, irrespective of the nature of his or her contributions to capital, shall have only the right to demand and receive cash in return for his or her contributions to capital.

(4) A member of a limited liability company may have the limited liability company dissolved and its affairs wound up when:

(a) The member rightfully but unsuccessfully has demanded the return of his or her contributions to capital; or

(b) The other liabilities of the limited liability company have not been paid or the limited liability company property is insufficient for their payment and the member would otherwise be entitled to the return of his or her contributions to capital.

Sec. 20. (1) A member shall be liable to the limited liability company:

(a) For the difference between his or her contributions to capital as actually made and as stated in the articles of organization as having been made; and

(b) For any unpaid contribution to capital which he or she agreed in the articles of organization to make in the future at the time and on the conditions stated in the articles of organization.

(2) A member holds as trustee for the limited liability company:

(a) Specific property stated in the articles of organization as contributed by such member but which was not contributed or which has been wrongfully or erroneously returned; and

(b) Money or other property wrongfully paid or conveyed to such member on account of his or her contributions to capital.

(3) The liabilities of a member as set out in this section may

be waived or compromised only by the consent of all members. A waiver or compromise shall not affect the right of a creditor of the limited liability company who extended credit or whose claim arose after the filing and before a cancellation or amendment of the articles of organization to enforce the liabilities.

(4) When a contributor has rightfully received the return in whole or in part of his or her contributions to capital, the contributor shall be liable to the limited liability company for any sum, not in excess of the amount returned with interest, necessary to discharge the liability to all creditors of the limited liability company who extended credit or whose claims arose before the return.

Sec. 21. The interest of a member in a limited liability company constitutes the personal estate of the member and may be transferred or assigned as provided in the operating agreement. If all of the other members of the limited liability company other than the member proposing to dispose of his or her interest do not approve of the proposed transfer or assignment by unanimous written consent, the transferee of the member's interest shall have no right to participate in the management of the business and affairs of the limited liability company or to become a member. The transferee shall only be entitled to receive the share of profits or other compensation by way of income and the return of contributions to capital to which that member would otherwise be entitled.

Sec. 22. A limited liability company shall be dissolved upon the occurrence of the following:

(1) The expiration of the period fixed for the duration of the limited liability company;

(2) The unanimous written agreement of all members; or

(3) The death, retirement, resignation, expulsion, bankruptcy, or dissolution of a member or the occurrence of any other event which terminates the continued membership of a member in the limited liability company unless the business of the limited liability company is continued by the consent of at least two-thirds of the remaining members or as otherwise provided in writing, in the articles of organization, or in the operating agreement.

Sec. 23. (1) Following the occurrence of any of the events specified in section 22 of this act effecting the dissolution of the limited liability company, the limited liability company shall execute a statement of intent to dissolve in such form as prescribed by the Secretary of State.

(2) Duplicate originals of the statement of intent to dissolve shall be delivered to the Secretary of State. If the Secretary of State finds that the statement conforms to the requirements of this section and all fees and taxes have been paid, he or she shall:

(a) Endorse on each of such duplicate originals the word filed and the month, day, and year of the filing thereof;

(b) File one of the duplicate originals in his or her office;
and

(c) Return the other duplicate original to the limited liability company or its representative.

Sec. 24. Upon the filing by the Secretary of State of a statement of intent to dissolve, the limited liability company shall cease to carry on its business except as may be necessary for the winding up of its business. The separate existence of the limited liability company shall continue until a certificate of dissolution has been issued by the Secretary of State or until a decree dissolving the limited liability company has been entered by a court of competent jurisdiction.

Sec. 25. (1) In settling accounts after dissolution, the liabilities of the limited liability company shall be entitled to payment in the following order:

(a) Liabilities to creditors other than members of the limited liability company on account of their contributions to capital, in the order of priority provided by law;

(b) Liabilities to members of the limited liability company in respect of their share of the profits and other compensation by way of income on their contributions; and

(c) Liabilities to members of the limited liability company in respect of their contributions to capital.

(2) Subject to any statement in the operating agreement, members shall share in the limited liability company assets in respect to their claims for contributions to capital and in respect to their claims for profits or for compensation by way of income on their contributions to capital, respectively, in proportion to the respective amounts of the claim.

Sec. 26. When all debts, liabilities, and obligations have been paid and discharged or adequate provision has been made therefor and all of the remaining property and assets have been distributed to the members, articles of dissolution shall be executed in duplicate and verified by the person signing the statement. The statement shall set forth:

(1) The name of the limited liability company;

(2) That the Secretary of State has filed a statement of intent to dissolve the company and the date on which the statement was filed;

(3) That all debts, liabilities, and obligations have been paid and discharged or that adequate provision has been made therefor;

(4) That all the remaining property and assets have been distributed to the members in accordance with their respective rights and interests; and

(5) That there are no suits pending against the limited liability company in any court or that adequate provision has been made for the satisfaction of any judgment, order, or decree which may be entered against it in any pending suit.

Sec. 27. (1) Duplicate originals of the articles of dissolution of a limited liability company shall be delivered to the Secretary of State. If the Secretary of State finds that the articles of dissolution conform to the requirements of section 26 of this act and all fees and taxes have been paid, he or she shall:

(a) Endorse on each of such duplicate originals the word filed and the month, day, and year of the filing thereof;

(b) File one of the duplicate originals in his or her office; and
(c) Issue a certificate of dissolution to which he or she shall affix the other duplicate original.

(2) The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto, shall be returned to the representative of the dissolved limited liability company. Upon the issuance of the certificate of dissolution, the existence of the limited liability company shall cease except for the purpose of suits, other proceedings, and appropriate action as provided in the Limited Liability Company Act. The manager at the time of dissolution shall thereafter be trustee for the members and creditors of the dissolved limited liability company and as such shall have authority to distribute any property of the limited liability company discovered after dissolution, convey real estate, and take such other action as may be necessary on behalf of and in the name of such dissolved limited liability company.

(3) The certificate of organization of a limited liability company shall be canceled by the Secretary of State upon issuance of the certificate of dissolution.

Sec. 28. (1) The articles of organization of a limited liability company shall be amended when:

(a) There is a change in the name of the limited liability company;

(b) There is a change in the purpose for which the limited liability company is organized;

(c) There is a false or erroneous statement in the articles of organization;

(d) There is a change in the time as stated in the articles of organization for the dissolution of the limited liability company;

(e) A time is fixed for the dissolution of the limited liability company if no time is specified in the articles of organization; or

(f) The members desire to make a change in any other statement in the articles of organization so the articles will accurately represent the agreement between the members.

(2) The form for evidencing an amendment to the articles of organization of a limited liability company shall be prescribed by the Secretary of State and shall contain such terms and provisions as determined by the Secretary of State. The amendment shall be signed and sworn to by all members, and an amendment adding a new member shall also be signed by the member to be added. Duplicate originals of the amendment shall be forwarded to the Secretary of State for filing with the filing fee.

Sec. 29. A member of a limited liability company shall not be a proper party to proceedings by or against a limited liability company except when the object is to enforce a member's right against or liability to the limited liability company.

Sec. 30. When notice is required to be given to a member or manager under the Limited Liability Company Act, the articles of

organization, or the operating agreement, a waiver in writing signed by the person or persons entitled to the notice, whether before or after the time stated in the notice, shall be the equivalent to the giving of notice.

Sec. 31. Each member, manager, employee, or agent of a limited liability company organized under the Limited Liability Company Act who renders professional services shall hold a valid license or otherwise be duly authorized to render those professional services under the law of this state if he or she renders professional services within this state or under the law of the state, territory, or other jurisdiction in which he or she renders those professional services.

Sec. 32. Except for those provisions in the Limited Liability Company Act concerning the personal liability of members, managers, employers, and agents of a limited liability company organized under the act, nothing in the act is intended to restrict or limit in any manner the authority and duty of any regulatory body licensing professionals within the state to license such individuals rendering professional services or to regulate the practice of any profession that is within the jurisdiction of the regulatory body licensing such professionals within the state notwithstanding that the person is a member, manager, employee, or agent of a limited liability company and rendering professional services or engaging in the practice of the profession through a limited liability company.

Sec. 33. A limited liability company shall be classified as a partnership or as an association taxed as a corporation for state income tax purposes in the same manner as it is classified for federal income tax purposes.

Sec. 34. The Secretary of State shall charge and collect:

(1) The following fees for filing the original articles of organization and issuing certificates of organization if the capital of the limited liability company is:

| <u>CAPITAL</u> | <u>FILING FEE</u> |
|----------------------------------|---|
| <u>Not in excess of \$50,000</u> | <u>\$100</u> |
| <u>\$50,001 to \$100,000</u> | <u>\$200</u> |
| <u>In excess of \$100,000</u> | <u>\$200 for the first \$100,000 plus \$2.00 for each additional \$1,000, not to exceed a fee of \$25,000</u> |

(2) For amending the articles of organization, a filing fee of fifteen dollars and three dollars per page, together with the appropriate fee set out in subdivision (1) of this section if the amendment is to increase the amount of capital;

(3) For filing a statement of intent to dissolve, fifteen dollars and three dollars per page;

(4) For filing articles of dissolution, issuing a certificate of dissolution, and canceling the certificate of organization, twenty-five dollars and three dollars per page;

(5) For filing a statement of change of address of registered

office or change of registered agent, or both, fifteen dollars and three dollars per page;

(6) An annual tax of forty-three dollars at minimum, due and payable January 2 of each year. The tax shall be delinquent if not paid by April 16, and in addition to the tax, a late fee of fifty dollars shall then be due;

(7) For any service of process on him or her as resident agent of a limited liability company, five dollars, which may be recovered as taxable costs by the party to the suit or action causing the service to be made if the party prevails in the suit or action;

(8) For filing foreign application for certificate of authority, one hundred dollars and three dollars per page;

(9) For filing foreign amended application for certificate of authority, fifteen dollars, plus recording fee;

(10) For filing withdrawal of a foreign corporation, fifteen dollars, plus recording fee; and

(11) For filing a change of street address in any city or village in this state of the registered office of any registered agent who serves as registered agent for more than one corporation, fifty dollars, plus recording fee.

The fees and taxes set forth in this section shall be paid to the Secretary of State who shall remit them to the State Treasurer for credit to the General Fund.

Sec. 35. All persons who assume to act as a limited liability company without authority to do so shall be jointly and severally liable for all debts and liabilities of the company.

Sec. 36. It is the intent of the Legislature that the legal existence of limited liability companies organized under the Limited Liability Company Act be recognized outside the boundaries of this state and that, subject to any reasonable requirement of registration, a domestic limited liability company transacting business outside this state be granted the protection of full faith and credit under the Constitution of the United States.

Sec. 37. The law of the state or other jurisdiction under which a foreign limited liability company is formed shall govern its formation and internal affairs and the liability of its members and managers. A foreign limited liability company shall not be denied a certificate of authority by reason of any difference between those laws and the laws of this state. A foreign limited liability company holding a valid certificate of authority in this state shall have no greater rights and privileges than a domestic limited liability company. The certificate of authority shall not be deemed to authorize the foreign limited liability company to exercise any of its powers or purposes that a domestic limited liability company is forbidden by law to exercise in this state.

Sec. 38. Before doing business in this state, a foreign limited liability company shall obtain a certificate of authority from the Secretary of State. In order to obtain a certificate of authority, a foreign limited liability company shall submit to the Secretary of State, together

with payment of the fee required by the Limited Liability Company Act, an original executed by a member, together with a duplicate original, of an application for a certificate of authority as a foreign limited liability company, setting forth:

(1) The name of the foreign limited liability company;
 (2) The state or other jurisdiction or country where organized, the date of its organization, and a statement issued by an appropriate authority in that jurisdiction that the foreign limited liability company exists in good standing under the laws of the jurisdiction of its organization;

(3) The nature of the business or purposes to be conducted or promoted in this state;

(4) The address of the registered office and the name and address of the resident agent for service of process required to be maintained by the act; and

(5) Such additional information as may be necessary or appropriate in order to enable the Secretary of State to determine whether such foreign limited liability company is entitled to a certificate of authority to transact business in this state and to determine and assess the fees and taxes prescribed by the laws of this state.

Sec. 39. The original and a duplicate original of the application of a foreign limited liability company for a certificate of authority shall be delivered to the Secretary of State along with the filing fees required by section 34 of this act. If the Secretary of State finds that the application conforms to law, he or she shall:

(1) Endorse on each of such documents the word filed and the month, day, and year of the filing thereof;

(2) File in his or her office the original of the application;

and

(3) Issue a certificate of authority to transact business in this state to which he or she shall affix the duplicate original of the application.

The certificate of authority, together with the duplicate original of the application affixed thereto by the Secretary of State, shall be returned to the principal office of the foreign limited liability company or its representative.

Sec. 40. No certificate of authority shall be issued to a foreign limited liability company unless the name of such company satisfies the requirements of section 4 of this act. If the name under which a foreign limited liability company is registered in the jurisdiction of its formation does not satisfy the requirements of such section, to obtain or maintain a certificate of authority the foreign limited liability company may use a designated name that is available and which satisfies the requirements of such section.

Sec. 41. (1) The application for a certificate of authority of a foreign limited liability company shall be amended by filing articles of amendment with the Secretary of State signed by a person with authority to do so under the laws of this state or other jurisdiction of its

organization. The articles of amendment shall set forth:

- (a) The name of the foreign limited liability company;
- (b) The date the original application for a certificate of authority was filed; and
- (c) The amendment to the application for a certificate of authority.

(2) The application for a certificate of authority may be amended in any way, except that the application for a certificate of authority as amended may contain only provisions that may be lawfully contained in an application for registration at the time of making the amendment.

Sec. 42. The original and a duplicate original of an application for withdrawal of a foreign limited liability company shall be delivered to the Secretary of State. If the Secretary of State finds that such application conforms to the provisions of the Limited Liability Company Act, he or she shall, when all fees and taxes have been paid:

- (1) Endorse on the original and the duplicate original the word filed and the month, day, and year of the filing thereof;
- (2) File the original in his or her office; and
- (3) Issue a certificate of withdrawal to which he or she shall affix the duplicate original.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the Secretary of State, shall be returned to the foreign limited liability company or its representative. Upon the issuance of such certificate of withdrawal, the authority of the foreign limited liability company to transact business in this state shall cease.

Sec. 43. No foreign limited liability company transacting business in this state without a certificate of authority shall be permitted to maintain any action, suit, or proceeding in any court of this state until such limited liability company has obtained a certificate of authority. No action, suit, or proceeding shall be maintained in any court of this state by any successor or assignee of such limited liability company on any right, claim, or demand arising out of the transaction of business by such limited liability company in this state until a certificate of authority has been obtained by the foreign limited liability company which has acquired all or substantially all of its assets. A foreign limited liability company shall not be barred solely for the reason that it is or has been carrying on one or more of the activities enumerated in section 44 of this act.

The failure of a foreign limited liability company to obtain a certificate of authority to transact business in this state shall not impair the validity of any contract or act of such limited liability company and shall not prevent the foreign limited liability company from defending any action, suit, or proceeding in any court of this state.

A foreign limited liability company which transacts business in this state without a certificate of authority shall be liable to this state, for the years or parts thereof during which it transacted business in this state without a certificate of authority, in an amount equal to all fees and taxes

which would have been imposed by the laws of this state upon the foreign limited liability company had it duly applied for and received a certificate of authority to transact business in this state as required by the Limited Liability Company Act plus all penalties imposed by the laws of this state for failure to pay such fees and taxes. The Attorney General shall bring proceedings to recover all amounts due this state under this section.

Sec. 44. (1) Without excluding activities which do not constitute transacting business in this state, a foreign limited liability company shall not be considered to be transacting business in this state, for the purpose of being required to secure a certificate of authority pursuant to section 38 of this act, by reason of carrying on in this state any one or more of the following activities:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding or effecting the settlement thereof or the settlement of claims or disputes;

(b) Holding meetings of its directors or members or carrying on other activities concerning its internal affairs;

(c) Maintaining bank accounts;

(d) Maintaining offices or agencies for the transfer, exchange, and registration of its securities or appointing and maintaining trustees or depositories with relation to its securities;

(e) Effecting sales through independent contractors;

(f) Soliciting or procuring orders, whether by mail or through employees or agents or otherwise, when such orders require acceptance without this state before becoming binding contracts;

(g) Creating, as a borrower or lender, or acquiring indebtedness, mortgages, or other security interests in real or personal property;

(h) Securing, collecting, or servicing debts or enforcing any rights in property securing the same;

(i) Transacting any business in interstate commerce; or

(j) Conducting an isolated transaction completed within a period of thirty days and not in the course of a number of repeated transactions of like nature.

(2) A foreign limited liability company shall not be considered to be transacting business solely because it:

(a) Owns a controlling interest in a corporation or a foreign corporation that transacts business;

(b) Is a limited partner of a limited partnership or foreign limited partnership that is transacting business; or

(c) Is a member or manager of a limited liability company or foreign limited liability company that is transacting business.

(3) The specification of activities which do not constitute transacting business for purposes of the Limited Liability Company Act shall establish a standard for those activities in determining whether a foreign limited liability company is exercising its franchise or doing business in this state in a business capacity except for activities which may subject a limited liability company to service of process or to property

taxes assessed against any property or interest therein.

Sec. 45. The Attorney General may maintain an action to restrain a foreign limited liability company from transacting business in this state in violation of the Limited Liability Company Act.

Sec. 46. That section 1-126, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-126. A partnership or limited liability company engaged in this state in the practice of public accounting may register with the board as a partnership or limited liability company of certified public accountants if it meets the following requirements:

(1) At least one general partner or member thereof must be a certified public accountant of this state in good standing; :

(2) Each partner or member thereof personally engaged within this state in the practice of public accounting as a partner or member thereof must be a certified public accountant of this state in good standing; :

(3) Each partner or member thereof must be a certified public accountant of some state in good standing; and :

(4) Each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state in good standing.

An application for such registration must be made upon the affidavit of a general partner of such partnership or a member of such limited liability company who is a certified public accountant of this state in good standing. The board shall in each case determine whether the applicant is eligible for registration. A partnership or limited liability company which is so registered and which holds a permit issued under ~~the provisions of~~ section 1-136 may use the words certified public accountants or the abbreviation C.P.A.'s in connection with its partnership or limited liability company name. Notification shall be given the board, within one month, after the admission to or withdrawal of a partner from any partnership or a member from any limited liability company so registered.

Sec. 47. That section 1-133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-133. A partnership or limited liability company engaged in this state in the practice of public accounting may register with the board as a partnership or limited liability company of public accountants if it meets the following requirements:

(1) At least one general partner or member thereof must be a certified public accountant or a public accountant of this state in good standing; :

(2) Each partner or member thereof personally engaged within this state in the practice of public accounting as a partner or member thereof must be a certified public accountant or a public accountant of this state in good standing; and :

(3) Each resident manager in charge of an office of a firm in this state must be a certified public accountant or a public accountant

of this state in good standing.

An application for such registration must be made upon the affidavit of a general partner of such partnership or a member of such limited liability company who holds a permit to practice in this state as a certified public accountant or as a public accountant. The board shall in each case determine whether the applicant is eligible for registration. A partnership or limited liability company which is so registered and which holds a partnership or limited liability company permit issued under ~~the provisions of~~ section 1-136 may use the words public accountants in connection with its partnership or limited liability company name. Notification shall be given the board, within one month, after the admission to or withdrawal of a partner from any partnership or member from any limited liability company so registered.

Sec. 48. That section 1-135, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-135. Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, by a partnership of certified public accountants, by a limited liability company of certified public accountants, by a public accountant, by a partnership of public accountants, by a limited liability company of public accountants, by one registered under ~~the provisions of~~ section 1-125, or by a corporation shall be registered annually under ~~the provisions of~~ the Public Accountancy Act of 1957 with the board, but no fee shall be charged for registration of the first office. An annual fee shall be charged for the registration of the second and each additional office registered by such accountant or accountants. Such fee shall be in an amount to be determined, from time to time, by the board, not to exceed fifty dollars. Each office shall be under the supervision of a manager who may be either a principal or a staff employee holding a permit under the provisions of section 1-136 which is in full force and effect. The title or designation certified public accountant or the abbreviation C.P.A. shall not be used in connection with such office unless such manager is the holder of a certificate as a certified public accountant under ~~the provisions of~~ sections 1-114 to 1-124 and a permit issued under ~~the provisions of~~ section 1-136, both of which are in full force and effect. Such manager may serve in such capacity at one office only. The board shall by regulation prescribe the procedure to be followed in effecting such registrations.

Sec. 49. That section 1-136, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-136. Permits to engage in the practice of public accounting in this state shall be issued by the board to persons who are holders of the certificate of certified public accountant issued under sections 1-114 to 1-124 and who have met the experience requirements of section 1-136.02, to persons, ~~and~~ partnerships, and limited liability companies registered under sections 1-125 to 1-133, and to corporations registered under section 1-134 as long as all offices of such certificate holder or registrant are maintained and registered as required under

section 1-135. There shall be an annual permit fee in an amount to be determined, from time to time, by the board, not to exceed one hundred dollars. All permits shall expire on June 30 of each year and may be renewed annually for a period of one year by certificate holders and registrants in good standing upon payment of an annual renewal fee of not to exceed one hundred dollars. The board may prorate the renewal fee to one-half the annual renewal fee for any permit issued for six months or less. Failure of a certificate holder or registrant to apply for such annual permit to practice within (1) three years from the expiration date of the permit to practice last obtained or renewed or (2) three years from the date upon which the certificate holder or registrant was granted a certificate or registration if no permit was ever issued to such person shall deprive him or her of the right to renewal unless the board, in its discretion, determines such failure to have been due to excusable neglect. In such case the renewal fee or the fee for the issuance of the original permit, as the case may be, shall be such amount as the board shall from time to time determine, but not in excess of one hundred dollars. Any certificate holder or registrant who has not lost his or her right to issuance or renewal and who is not actively engaged in the practice of public accounting in this state may file a written application with the board to be classified as inactive. A person so classified shall not be issued a permit to engage in public accounting ~~nor~~ or be deemed the holder of a live permit as defined in section 1-151, but shall be carried upon an inactive roll to be maintained by the board upon the payment of an annual inactive fee established by the board of not more than forty percent of the fee charged persons actively engaged in the practice of public accounting as provided in this section. A person so classified shall not be deprived of the right to issuance or renewal of permit and may, upon application to the board and upon payment of the current annual permit fee, be granted a current annual permit.

Sec. 50. That section 1-138, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-138. After notice and hearing as provided in sections 1-140 to 1-149, the board shall revoke the registration and permit to practice of a partnership or a limited liability company if at any time it does not have all the qualifications prescribed by section 1-126 or 1-133 under which it qualified for registration.

After notice and hearing as provided in sections 1-140 to 1-149, the board may revoke or suspend the registration of a partnership or a limited liability company, ~~or~~ may revoke, suspend, or refuse to renew its permit under ~~the provisions of~~ section 1-136 to practice, or may censure the holder of any such permit for any of the causes enumerated in section 1-137; or for any of the following additional causes:

(1) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner or member; or

(2) The cancellation, revocation, suspension, or refusal to

renew the authority of the partnership or any partner thereof or the limited liability company or any member thereof to practice public accounting in any other state for any cause other than failure to pay an annual registration fee in such other state.

Sec. 51. That section 1-152, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-152. No partnership or limited liability company shall assume or use the title or designation certified public accountant or the abbreviation C.P.A. or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership or limited liability company is composed of certified public accountants unless such partnership or limited liability company is registered as a partnership of certified public accountants or a limited liability company of certified public accountants under ~~the provisions of~~ section 1-126, holds a live permit issued under ~~the provisions of~~ section 1-136, and all of such partnership's or limited liability company's offices in this state for the practice of public accounting are maintained and registered as required under ~~the provisions of~~ section 1-135.

Sec. 52. That section 1-154, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-154. No partnership or limited liability company shall assume or use the title or designation public accountant or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership or limited liability company is composed of public accountants, unless such partnership or limited liability company is registered as a partnership of public accountants or a limited liability company of public accountants under ~~the provisions of~~ section 1-133 or as a partnership of certified public accountants or a limited liability company of certified public accountants under ~~the provisions of~~ section 1-126 and holds a live permit issued under ~~the provisions of~~ section 1-136 and all of such partnership's or limited liability company's offices in this state for the practice of public accounting are maintained and registered as required under ~~the provisions of~~ section 1-135.

Sec. 53. That section 1-155, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-155. No person, ~~or~~ partnership, or limited liability company shall assume or use the title or designation certified accountant, chartered accountant, enrolled accountant, licensed accountant, or registered accountant; or any other title or designation likely to be confused with certified public accountant or public accountant; or any of the abbreviations C.A., P.A., E.A., R.A., or L.A. or similar abbreviations likely to be confused with C.P.A. Anyone ~~; PROVIDED, that anyone~~ who holds a live permit issued under ~~the provisions of~~ section 1-136 and all of whose offices in this state for the practice of public accounting are maintained and registered as required under ~~the provisions of~~ section 1-135 may hold himself or herself out to the public as an accountant or auditor. A ~~; AND PROVIDED FURTHER, that a~~ foreign accountant registered under ~~the provisions of~~ section 1-125, who holds a live permit

issued under the provisions of section 1-136, and all of whose offices in this state for the practice of public accounting are maintained and registered as required under ~~the provisions of~~ section 1-135; may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree.

Sec. 54. That section 1-157, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-157. No person shall sign or affix his or her name or any trade or assumed name used by him or her in his or her profession or business; with any wording indicating that he or she is an accountant or auditor; or with any wording indicating that he or she has expert knowledge in accounting or auditing; to any accounting or financial statement; or to any opinion on, report on, or certificate to any accounting or financial statement; unless he or she holds a live permit issued under ~~the provisions of~~ section 1-136; and all of his or her offices in this state for the practice of public accounting are maintained and registered under ~~the provisions of~~ section 1-135. This ; PROVIDED, that the provisions of this section shall not prohibit any officer, employee, partner, member, or principal of any organization from affixing his or her signature to any statement or report in reference to the financial affairs of said the organization with any wording designating the position, title, or office which he or she holds in said the organization, nor shall the provisions of this section prohibit any act of a public official or public employee in the performance of his or her duties as such.

Sec. 55. That section 1-158, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-158. No person shall sign or affix a partnership or limited liability company name, with any wording indicating that it is a partnership or limited liability company composed of accountants, ~~or~~ auditors, or persons having expert knowledge in accounting or auditing, to any accounting or financial statement, or to any report on or certificate to any accounting or financial statement, unless the partnership or limited liability company holds a live permit issued under ~~the provisions of~~ section 1-136; and all of its offices in this state for the practice of public accounting are maintained and registered as required under ~~the provisions of~~ section 1-135.

Sec. 56. That section 1-160, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-160. No person, partnership, limited liability company, or corporation; not holding a live permit issued under ~~the provisions of~~ section 1-136; shall hold himself, herself, or itself out to the public as an accountant or auditor by use of either or both of such words on any sign, card, or letterhead; or in any advertisement or directory; without indicating thereon or therein that such person, partnership, limited liability company, or corporation does not hold such a permit. This ; PROVIDED, that this section shall not prohibit any officer, employee,

partner, member, or principal of any organization from describing himself or herself by the position, title, or office he or she holds in such organization nor any act of any public official or public employee in the performance of his or her duties as such.

Sec. 57. That section 1-161, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-161. No person shall assume or use the title or designation certified public accountant or public accountant in conjunction with names indicating or implying that there is a partnership or a limited liability company or in conjunction with the designation and company; or and Co. or a similar designation if, in any such case, there is in fact no bona fide partnership or limited liability company registered under the provisions of sections 1-126 to 1-133, ~~except~~ †PROVIDED, that a sole proprietor or partnership lawfully using such title or designation in conjunction with such names or designation on September 20, 1957, may continue to do so if he, she, or it otherwise complies with the provisions of the Public Accountancy Act of 1957.

Sec. 58. That section 1-162, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-162. Nothing contained in the Public Accountancy Act of 1957 shall prohibit any person not a certified public accountant or public accountant from serving as an employee of, or an assistant to, a certified public accountant, ~~or~~ or public accountant, or partnership or limited liability company composed of certified public accountants or public accountants holding a permit to practice issued under the provisions of section 1-136 or a foreign accountant registered under the provisions of section 1-125, ~~except~~ †PROVIDED, that such employee or assistant shall not issue any accounting or financial statement over his or her name.

Sec. 59. That section 1-164.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-164.02. Nothing in the Public Accountancy Act of 1957 or the rules and regulations adopted and promulgated under such act shall be construed to prohibit a person holding a certificate of a certified public accountant from forming a business partnership or limited liability company with an accountant not holding a license or permit.

Sec. 60. That section 1-168, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-168. All statements, records, schedules, working papers, and memoranda made by a certified public accountant or public accountant incident to or in the course of professional service to clients by such accountant, except reports submitted by a certified public accountant or public accountant to a client, shall be and remain the property of such accountant; in the absence of an express agreement between such accountant and the client to the contrary. No such statement, record, schedule, working paper, or memorandum shall be sold, transferred, or bequeathed, without the consent of the client or his or her personal representative or assignee, to anyone other than one or more surviving

partners or members or new partners or members of such accountant.

Sec. 61. That section 2-953, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-953. For purposes of the Noxious Weed Control Act:

(1) Person shall mean any individual, partnership, firm, limited liability company, corporation, company, society, or association, the state or any department, agency, or subdivision thereof, or any other public or private entity;

(2)(a) Control, with respect to land, shall mean authority to operate, manage, supervise, or exercise jurisdiction over or any similar power. The state or federal government or a political subdivision shall not be deemed to control land on which it has an easement as long as it does not otherwise operate, manage, supervise, or exercise jurisdiction over the land; and

(b) Control, with respect to weeds, shall mean the prevention, suppression, or limitation of the growth, spread, propagation, or development or the eradication of weeds;

(3) County board shall mean the county board of commissioners or supervisors;

(4) Noxious weeds shall mean and include any weeds designated and listed as noxious in rules and regulations adopted and promulgated by the director;

(5) Control authority shall mean the county weed district board or the county board if it is designated as the control authority pursuant to this section, which board shall represent all rural areas and cities, villages, and townships within the county boundaries; and

(6) Director shall mean the Director of Agriculture or his or her designated representative.

The county board may, following an election in which a majority of the votes cast are in favor of such action, function as and exercise the authority and carry out the duties of the county weed district board. To initiate such an election, the county board may, by resolution, require the county clerk of such county to have placed upon the ballot at the election next following such resolution, the question, Shall the county weed district board be dissolved and its duties and authority be exercised by the county board?

Yes No

If a majority of the votes cast on this question are opposed to dissolution of the county weed district board, the county shall remain subject to the direction and authority of the elected county weed district board. If a majority of the votes cast on this question are in favor of the dissolution of the county weed district board, the county board shall function as and exercise the authority and carry out the duties of the county weed district board. If, at any time following the dissolution of the county weed district board, county residents, representing at least ten percent of the votes cast in the preceding general election in such county, submit a petition to the county clerk for reestablishment of the county weed district board as an independent elected body, the clerk shall place

the following question on the next general election ballot: Shall the county weed district board be reestablished and elected independent of other county officials?

Yes No

If a majority of the ballots favor reestablishment of the independent board, the county board shall appoint an initial county weed district board and thereafter the county weed district board members shall be elected in conformity with this section.

When the county board does not function as the county weed district board, such board shall be composed of five members, three of whom shall be from rural areas and two of whom shall be from cities, villages, or townships. The county board shall appoint members to fill any vacancy occurring on the county weed district board. The two members from cities, villages, or townships shall thereafter be elected at the general election in 1966 and each four years thereafter, and the three members from rural areas shall be elected at the general election in 1968 and each four years thereafter. Persons seeking election to the county weed district board shall be nominated and elected regardless of political affiliation. They shall file in the same manner as is provided by law for county superintendents and shall not be required to pay a filing fee. The members of the county weed district board shall be paid a per diem of not less than twelve dollars for each day actually and necessarily engaged in the performance of their official duties as members of such board and shall be allowed mileage reimbursement on the same basis as provided in section 23-1112. The chairperson of the county board may appoint one additional member from the county board to serve as an ex officio member of the county weed district board to provide coordination between such boards, except that the county board member or commissioner so appointed shall not be entitled to the expense reimbursement allowed county weed district board members. The ex officio member shall possess the same authority as other members, including the right to vote.

Sec. 62. That section 2-1084, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1084. Person shall mean any body politic or corporate, society, community, the public generally, any individual, partnership, limited liability company, joint-stock company, or association, or any agent of any such entity.

Sec. 63. That section 2-1810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-1810. As used in the Nebraska Potato Development Act:

(1) Person shall mean and include any natural person, firm, partnership, limited liability company, association, or corporation;

(2) Potato shipper shall mean and include any person engaged in the business of shipping potatoes who, in any calendar year, ~~shall sell~~ sells one hundred eighty thousand pounds of potatoes grown in Nebraska, including potato growers who sell one hundred eighty thousand pounds of potatoes not through licensed shippers and any person who

utilizes for any purpose in any calendar year one hundred eighty thousand pounds of potatoes grown in Nebraska; not purchased from licensed shippers;

(3) Potato grower shall mean the actual grower; within the State of Nebraska; of at least three acres of potatoes during the crop year; and

(4) Department shall mean the Department of Agriculture.

Sec. 64. That section 2-2303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2303. ~~As used in sections 2-2301 to 2-2319~~ For purposes of the Nebraska Wheat Resources Act, unless the context otherwise requires:

(1) Board shall mean the Nebraska Wheat Development, Utilization, and Marketing Board;

(2) Grower shall mean any landowner personally engaged in growing wheat, a tenant of the landowner personally engaged in growing wheat, and both the owner and the tenant jointly; and ~~includes~~ shall include a person, partnership, limited liability company, association, corporation, cooperative, trust, sharecropper, and ~~any and all~~ other business units, devices, and arrangements;

(3) First purchaser shall mean any person, public or private corporation, association, ~~or~~ partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the property in or to wheat from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower; when the actual or constructive possession of such wheat is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(4) Commercial channels shall mean the sale of wheat for any use; when sold to any commercial buyer, dealer, processor, cooperative, or ~~to~~ any person, public or private, who resells any wheat or product produced from wheat; and

(5) Sale shall also include any pledge or mortgage of wheat; after harvest; to any person, public or private.

Sec. 65. That section 2-2446, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2446. The board of directors shall not be required to conduct; or contract for; any program of weather control for any year in which it does not appear that such program would be of substantial benefit to the district. In the event any program of weather control is conducted within any such weather control district organized under the Weather Control Act of Nebraska ~~sections 2-2428 to 2-2449~~ it shall be unlawful for any aircraft of such district or its contractor to fly outside the boundaries of such district during any seeding operations or to seed any cloud formation situated outside the boundaries of such district. Any person, partnership, limited liability company, association, or corporation violating ~~the provisions of~~ this section shall be guilty of a Class I misdemeanor.

Sec. 66. That section 2-2601, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

2-2601. For purposes of sections 2-2601 to 2-2611, unless the context otherwise requires:

(1) Economic poison shall mean (a) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the director declares to be a pest and (b) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant;

(2) Device shall mean any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or such other pests as may be designated by the director but shall not include equipment used for the application of economic poisons when sold separately therefrom;

(3) Insecticide shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever;

(4) Fungicide shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi;

(5) Rodenticide shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the director declares to be a pest;

(6) Herbicide shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed;

(7) Nematocide shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating nematodes;

(8) Plant regulator shall mean any substance or mixture of substances intended through physiological action for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of ornamental or crop plants or the produce thereof but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments;

(9) Defoliant shall mean any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission;

(10) Desiccant shall mean any substance or mixture of substances intended for artificially accelerating the drying of plant tissues;

(11) Nematode shall mean invertebrate animals of the phylum nemathelminthes and class nematode, that is, unsegmented roundworms with elongated, fusiform, or saclike bodies covered with cuticle and inhabiting soil, water, plants, or plant parts, and which may

also be called nemas or eelworms;

(12) Insect shall mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as, for example, beetles, bugs, bees, and flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice;

(13) Fungi shall mean all non-chlorophyll-bearing thallophytes, that is all non-chlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals;

(14) Weed shall mean any plant which grows where not wanted;

(15) Ingredient statement shall mean:

(a) Either (i) a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison or (ii) a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any, in the economic poisons, except that subdivision (i) of this subdivision shall apply if the economic poison is highly toxic to man, determined as provided in section 2-2604; and

(b) If the economic poison contains arsenic in any form, a statement of the percentages of total and water-soluble arsenic, each calculated as elemental arsenic;

(16) Active ingredient shall mean:

(a) In the case of an economic poison other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;

(b) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(c) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(d) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue;

(17) Inert ingredient shall mean an ingredient which is not an active ingredient;

(18) Antidote shall mean the most practical immediate treatment in case of poisoning and shall include first-aid treatment;

(19) Person shall mean any individual, partnership, limited liability company, association, corporation, or organized group of persons whether incorporated or not;

(20) Director shall mean the Director of Agriculture or his or her authorized agent;

(21) Registrant shall mean the person registering any economic poison pursuant to sections 2-2601 to 2-2611;

(22) Label shall mean the written, printed, or graphic matter on or attached to the economic poison or device or the immediate container thereof and the outside container or wrapper of the retail package, if any, of the economic poison or device;

(23) Labeling shall mean all labels and other written, printed, or graphic matter:

(a) Upon the economic poison or device or any of its containers or wrappers;

(b) Accompanying the economic poison or device at any time; and

(c) To which reference is made on the label or in literature accompanying the economic poison or device, except when accurate, nonmisleading reference is made to current official publications of the United States Departments of Agriculture or Interior, the United States Public Health Service, the University of Nebraska Institute of Agriculture and Natural Resources, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the field of economic poisons;

(24) Contaminated shall mean that a foreign, deleterious, or harmful substance is found in quantities greater than five hundred parts per million in an economic poison, which substance is not described as an ingredient on the label of the economic poison;

(25) Adulterated shall mean any economic poison if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted;

(26) Misbranded shall mean:

(a) Any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

(b) Any economic poison which is contained in a package, container, or wrapping which does not conform with standards established by the director pursuant to section 2-2604 and any device which does not comply with subdivision (26)(c)(iii), (iv), or (vii) of this section when such compliance is required under section 2-2604; or

(c) Any economic poison: (i) If it is an imitation of or is offered for sale under the name of another economic poison; (ii) if its labeling bears any reference to registration under sections 2-2601 to 2-2611; (iii) if the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for protection of the public; (iv) if the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals; (v) if the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under

customary conditions of purchase; (vi) if any word, statement, or other information required by or under the authority of sections 2-2601 to 2-2611 to appear on the labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; (vii) if in the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it is injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied or to the person applying such economic poison; or (viii) if in the case of a plant regulator, defoliant, or desiccant when used as directed it is injurious to living man or other vertebrate animals, to vegetation to which it is applied, or to the person applying such economic poison, except that physical or physiological effects on plants or parts thereof shall not be deemed to be injurious when this is the purpose for which the plant regulator, defoliant, or desiccant was applied in accordance with the label claims and recommendations; and

(27) Pest control professional shall mean any person who operates pest control equipment, applies economic poisons, or buys and sells economic poisons for a valuable consideration.

Sec. 67. That section 2-2701.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-2701.01. For purposes of sections 2-2701 to 2-2711, unless the context otherwise requires:

(1) Board shall mean the University of Nebraska Board of Tractor Test Engineers which shall consist of three engineers under the control of the university;

(2) Current tractor model shall mean any model included in the manufacturer's annual price list of tractors being offered for sale by its dealers or distributors;

(3) Department shall mean the Department of Agriculture;

(4) Director shall mean the Director of Agriculture or his or her authorized representative;

(5) Person shall mean bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations; and

(6) Tractor shall mean an agricultural tractor of forty or more horsepower which is a traction machine designed and advertised primarily to supply power to agricultural implements and farmstead equipment. An agricultural tractor propels itself and provides a force in the direction of travel to enable attached soil-engaging and other agricultural implements to perform their intended function.

Sec. 68. That section 2-3002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3002. As used in the Nebraska Poultry Disease Control Act, unless the context otherwise requires:

(1) Poultry shall mean domestic chickens, turkeys, ducks,

and geese of all ages;

(2) Hatching eggs shall mean eggs of poultry for hatching purposes including embryonated eggs;

(3) Hatchery shall mean hatchery equipment on one premises operated or controlled by any person;

(4) Breeding flock shall mean two or more individuals of the same species and different sexes maintained together to produce fertile eggs for the hatching of offspring;

(5) Person shall mean an individual, corporation, firm, ~~or~~ partnership, or limited liability company or any member or officer thereof; and

(6) Pullorum and typhoid clean shall mean poultry in which no pullorum or typhoid reactors were found on the first official blood test or which have been retested with two consecutive official negative tests.

Sec. 69. That section 2-3102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3102. As used in the Nebraska Soil and Plant Analysis Laboratory Act, unless the context otherwise requires:

(1) Director shall mean the Director of Agriculture;

(2) Department shall mean the Department of Agriculture;

(3) Person shall include an individual, partnership, limited liability company, firm, association, corporation, or body corporate or any officer or member of the same;

(4) Laboratory shall include, but ~~is~~ is not ~~be~~ restricted to, facilities or parts of facilities maintained and utilized for the purpose of performing soil and plant analysis and may be either fixed or mobile; and

(5) Soil and plant analysis shall mean the use of biological, chemical, or physical procedures in determining amounts of elements or compounds in the soil or in plants for the express purpose of providing a basis for plant nutrient application.

Sec. 70. That section 2-3302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3302. As used in the Nebraska Soybean Resources Act, unless the context otherwise requires:

(1) Board shall mean the Soybean Development, Utilization, and Marketing Board;

(2) Grower shall mean any landowner personally engaged in growing soybeans, a tenant of the landowner personally engaged in growing soybeans, and both the owner and tenant jointly and shall include a person, partnership, limited liability company, association, corporation, cooperative, trust, and sharecropper and any other business unit, device, and arrangement;

(3) First purchaser shall mean any person, public or private corporation, association, ~~or~~ partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the property rights in or to soybeans from a grower and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the

grower when the actual or constructive possession of such soybeans is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(4) Commercial channels shall mean the sale of soybeans for any use to any commercial buyer, dealer, processor, or cooperative or to any person, public or private, who resells any soybeans or product produced from soybeans; and

(5) Sale shall include any pledge or mortgage of soybeans after harvest to any person, public or private.

Sec. 71. That section 2-3403, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3403. ~~As used in sections 2-3401 to 2-3416~~ For purposes of the Nebraska Poultry and Egg Resources Act, unless the context otherwise requires:

(1) Department shall mean the Department of Agriculture; ~~of the State of Nebraska;~~

(2) Director shall mean the Director of Agriculture; ~~of the State of Nebraska;~~

(3) Committee shall mean the advisory committee created by section 2-3404;

(4) Nebraska Poultry Industries, Inc. shall mean a body corporate formed under the provisions of the Nonprofit Corporation Act, the articles of incorporation of which were received by the Secretary of State and filed for record on January 13, 1970, and recorded as film roll number 35, Miscellaneous Incorporations at page 2206. Its purpose and objective is to promote, improve, and protect all branches of the poultry and egg industry and to coordinate all the activities of its member divisions of the poultry industry and to act as their agent in promoting such activities favorably to the poultry industry as a whole for the entire State of Nebraska;

(5) Person shall mean any individual, firm, group of individuals, partnership, limited liability company, corporation, unincorporated association, cooperative, or ~~any~~ other entity, public or private;

(6) Egg producer shall mean any person engaged in the production of commercial eggs who owns or contracts for the care of layer-type chickens;

(7) Turkey producer shall mean a person who owns or contracts for the care of turkeys sold through commercial channels;

(8) First purchaser shall mean any person who receives or otherwise acquires poultry or eggs from a producer and processes, prepares for marketing, or markets such poultry or eggs, including the poultry or eggs of his or her own production, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the producer when the actual or constructive possession of such poultry or eggs is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(9) Poultry shall mean domestic chickens and turkeys;

(10) Commercial eggs shall mean, in the case of eggs produced in this state, eggs from domesticated chickens that are sold for human consumption either in shell egg form or for further processing and, in the case of eggs produced outside of this state, graded eggs sold to retailers, wholesalers, distributors, or food purveyors;

(11) Egg products shall mean commercial products produced, in whole or in part, from shell eggs;

(12) Market development shall mean research and educational programs which are directed toward (a) better and more efficient production, marketing, and utilization of poultry, eggs, and the products thereof produced for resale, (b) better methods, to include, but not be limited to, public relations and other promotion techniques, for the maintenance of present markets and for the development of new or larger domestic or foreign markets and for the sale of poultry, eggs, and the products thereof, and (c) the prevention, modification, or elimination of trade barriers which obstruct the free flow of poultry, eggs, and the products thereof to market;

(13) Commercial channels shall mean the sale of poultry, eggs, or the products thereof for any use when sold to any commercial buyer, dealer, processor, or cooperative or to any person who resells any poultry, eggs, or the products thereof;

(14) Case shall mean a unit of thirty dozen eggs;

(15) Breaker shall mean a person engaged in the further processing of commercial eggs;

(16) Sale shall include any pledge or mortgage of poultry, eggs, or the products thereof to any person;

(17) Retailer shall mean a person who sells eggs or offers eggs for sale directly to consumers;

(18) Wholesaler or distributor shall mean a person who sells eggs to retailers, food purveyors, other wholesalers, or other distributors; and

(19) Food purveyor shall mean a person who operates a restaurant, cafeteria, hotel, hospital, nursing home, boarding house, school, government institution, or ~~any~~ other place where eggs are served in the shell or broken out for immediate consumption.

Sec. 72. That section 2-3605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3605. Grower shall mean any landowner personally engaged in growing corn, a tenant of the landowner personally engaged in growing corn, and both the owner and tenant jointly; and shall include a person, partnership, limited liability company, association, corporation, cooperative, trust, sharecropper, and ~~any~~ other business unit, device, and arrangement.

Sec. 73. That section 2-3606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3606. First purchaser shall mean any person, public or private corporation, association, ~~or~~ partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the

property in or to corn from a grower, and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower, when the actual or constructive possession of such corn is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim.

Sec. 74. That section 2-3741, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3741. First purchaser shall mean any person, public or private corporation, association, ~~or~~ partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring dry beans from a grower and shall include, but not be limited to, a mortgagee, pledgee, lienor, or other person having a claim against the grower when the actual or constructive possession of such dry beans is taken as part payment or in satisfaction of the mortgage, pledge, lien, or claim.

Sec. 75. That section 2-3742, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3742. Grower shall mean any landowner personally engaged in growing dry beans, a tenant of a landowner personally engaged in growing dry beans, or both the owner and tenant jointly and shall include, but not be limited to, any person, partnership, limited liability company, association, corporation, cooperative, trust, or sharecropper or any other business unit, device, or arrangement.

Sec. 76. That section 2-3817, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3817. As used in sections 2-3816 to 2-3823, unless the context otherwise requires:

- (1) Person shall mean any individual, firm, partnership, limited liability company, association, or corporation; and
- (2) Distillers' grain shall mean the unfermentable portion of a grain mash comprised of protein, unconverted carbohydrates and sugars, and inert material.

Sec. 77. That section 2-3914, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-3914. For purposes of the Nebraska Manufacturing Milk Act, unless the context otherwise requires:

- (1) Department shall mean the Department of Agriculture;
- (2) Director shall mean the Director of Agriculture or his or her duly authorized agent or designee;
- (3) License shall mean a license issued under the act by the director;
- (4) Fieldman shall mean an individual qualified and trained in the sanitary methods of production and handling of milk as set forth in the act and generally employed by a processing or manufacturing plant for the purpose of dairy farm inspections and quality control work;
- (5) Inspector shall mean an employee of the department who is qualified and trained to perform inspections under the act;
- (6) Producer shall mean the person or persons who exercise control over the production of the milk delivered to a processing

plant or receiving station for manufacturing purposes;

(7) Dairy farm or farm shall mean a place or premises where one or more milking cows or goats are kept, a part or all of the milk produced thereon being delivered, sold, or offered for sale to a plant for manufacturing purposes;

(8) Dairy plant, plant, or receiving station shall mean any place, premises, or establishment where milk or dairy products are received or handled for processing or manufacturing or prepared for distribution. When plant is used in connection with the production, transportation, grading, or use of milk, it shall mean any plant that handles or purchases milk for manufacturing purposes, and when used in connection with minimum specifications for plants or licensing of plants, it shall mean only those plants that manufacture dairy products;

(9) Transfer station shall mean any place, premises, or establishment where milk for manufacturing purposes or manufactured milk products are transferred directly from one transport tank to another;

(10) Hauler-sampler shall mean any individual who transports raw milk and raw milk products for manufacturing purposes to or from a milk plant, a receiving station, or a transfer station and who grades or samples such milk;

(11) Milk shall mean the normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats or cows. Milk shall include only milk for manufacturing purposes. Goat milk or commingled cow and goat milk may be used to manufacture dairy products that are legally provided for in 21 C.F.R., as it exists on January 1, 1990, or for nonstandardized products when properly labeled;

(12) Milk for manufacturing purposes shall mean milk produced for processing and manufacturing into products not required by law to be of Grade A quality;

(13) Acceptable milk shall mean milk that qualifies under sections 2-3915 to 2-3917.01 as to sight and odor and that is classified acceptable for somatic cells, bacterial estimate, antibiotic residues, and sediment;

(14) Probational milk shall mean milk classified undergrade for somatic cells, bacterial estimate, or sediment that may be accepted by plants for specific time periods;

(15) Reject milk shall mean milk that does not qualify under sections 2-3915 to 2-3917.01;

(16) Adulterated milk and dairy products shall mean any milk or dairy products in which one or more of the conditions described in section 402 of the Federal Food, Drug, and Cosmetic Act, as it exists on January 1, 1990, exist;

(17) Dairy products shall mean products allowed to be made from milk for manufacturing purposes and not required to be of Grade A quality;

(18) Official methods shall mean Official Methods of Analysis of the Association of Official Analytical Chemists, a publication

of the Association of Official Analytical Chemists;

(19) Standard methods shall mean Standard Methods for the Examination of Dairy Products, a publication of the American Public Health Association;

(20) 3-A sanitary standards shall mean the standards for dairy equipment formulated by the 3-A sanitary standards committees representing the International Association of Milk and Food Sanitarians, the United States Department of Health and Human Services, and the Dairy Industry Committee and published by the International Association of Milk and Food Sanitarians;

(21) C-I-P or cleaned-in-place shall mean the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation;

(22) Person shall mean any individual, plant operator, partnership, limited liability company, corporation, company, firm, trustee, or association; and

(23) A state-certified laboratory shall mean an industry or commercial laboratory certified under the Grade A Interstate Milk Shippers Program or that has been certified by the department to perform official work for examination of milk for manufacturing purposes as required in the Nebraska Manufacturing Milk Act.

Sec. 78. That section 2-4002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4002. ~~As used in sections 2-4001 to 2-4020~~ For purposes of the Grain Sorghum Resources Act, unless the context otherwise requires:

(1) Board shall mean the Grain Sorghum Development, Utilization, and Marketing Board;

(2) Grower shall mean any landowner personally engaged in growing grain sorghum, a tenant of the landowner personally engaged in growing grain sorghum, and both the owner and tenant jointly; and shall include a person, partnership, limited liability company, association, corporation, cooperative, trust, sharecropper, and ~~any~~ other business unit, device, or arrangement;

(3) First purchaser shall mean any person, public or private corporation, association, ~~or~~ partnership, or limited liability company buying, accepting for shipment, or otherwise acquiring the property rights in or to grain sorghum from a grower; and shall include a mortgagee, pledgee, lienor, or other person, public or private, having a claim against the grower; when the actual or constructive possession of such grain sorghum is taken as part payment or in satisfaction of such mortgage, pledge, lien, or claim;

(4) Commercial channels shall mean the sale of grain sorghum for any use to any commercial buyer, dealer, processor, or cooperative; or to any person, public or private, who resells any grain sorghum or product produced from grain sorghum; and

(5) Sale shall include any pledge or mortgage of grain sorghum after harvest to any person, public or private.

Sec. 79. That section 2-4204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4204. As used in the Conservation Corporation Act, unless the context otherwise requires:

(1) Conservation practice shall mean any work of improvement to farm and ranch land made by a landowner to protect or enhance agricultural productivity by controlling soil erosion or reducing sediment damage;

(2) Conservation loan shall mean a loan made by the corporation or a lender to a landowner to assist the landowner in the implementation of land treatment and water conservation practices;

(3) Corporation shall mean the Nebraska Conservation Corporation created by section 2-4205;

(4) Bond shall mean any bonds, notes, debentures, interim certificates, bond anticipation notes, or other evidences of financial indebtedness issued by the corporation;

(5) Landowner shall mean any resident of the state, any partnership of which eighty percent or more of the partnership interest is owned by residents of the state, any limited liability company of which eighty percent or more of the membership is owned by residents of the state, or any corporation of which more than eighty percent of the shares are owned by residents of the state, which resident, partnership, limited liability company, or corporation owns real estate in Nebraska which is utilized in the production of crops or raising of livestock;

(6) Mortgage shall mean a mortgage deed, deed of trust, or other instrument securing a conservation loan and constituting a lien on the real property or on the leasehold interest under a lease having a remaining term, at the time such mortgage is acquired, of not less than a term for repayment of the conservation loan secured by such mortgage, which is improved by conservation practices;

(7) Insurer shall mean an agency, department, administration, or instrumentality, corporate or otherwise, of or in any government agency in general, any private insurance company, or any other public or private agency which insures or guarantees payment of debt service on loans or bonds;

(8) Lender or lending institution shall mean any bank, trust company, savings and loan association, mortgage banker, insurance company, federal agency, or other financial institutions authorized to transact business in the State of Nebraska;

(9) Loan shall mean an interest-bearing obligation evidencing the money borrowed from the corporation;

(10) Board of directors shall mean the Board of Directors of the Nebraska Association of Resources Districts as organized under the Interlocal Cooperation Act which shall serve as the board of directors for the corporation. Such board shall consist of one representative director from each natural resources district in Nebraska. Selection and terms of office of such board of directors shall be governed by the interlocal cooperation agreement and by the articles and bylaws of such

organization;

(11) Administrator shall mean the person appointed by the board of directors pursuant to section 2-4208;

(12) Natural resource development practice shall mean any work or program of improvement undertaken by a political subdivision, within its authorized powers, relating to soil erosion prevention and control; prevention and control of damage from storm water, flood water, and sediment; soil conservation; water supply for beneficial uses; management and conservation of ground water and surface water; pollution control; sanitary and solid waste disposal; drainage improvement and channel rectification; development and management of fish and wildlife habitat; development and management of recreational and park facilities; and forestry and range management;

(13) Natural resource development loan shall mean a loan made by the corporation to a political subdivision to assist the political subdivision with any natural resource development practice; and

(14) Political subdivision shall mean any natural resources district, drainage district, rural water district, irrigation district, public power and irrigation district, county, city, or village of the State of Nebraska.

Sec. 80. That section 2-4603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4603. As used in the Erosion and Sediment Control Act, unless the context otherwise requires:

(1) Commission shall mean the Nebraska Natural Resources Commission;

(2) Conservation agreement shall mean an agreement between the owner or operator of a farm unit and the district in which the owner or operator agrees to implement a farm unit conservation plan or, with the approval of the district within which the farm unit is located, a portion of a farm unit conservation plan. The agreement shall include a schedule for implementation and may be conditioned on the furnishing by the district or other public entity of technical, planning, or financial assistance in the establishment of the soil and water conservation practices necessary to implement the plan or a portion of the plan;

(3) Director shall mean the Director of Natural Resources;

(4) District shall mean a natural resources district;

(5) Erosion or sediment control practice shall mean:

(a) The construction or installation and maintenance of permanent structures or devices necessary to carry, to a suitable outlet away from any building site, any commercial or industrial development, or any publicly or privately owned recreational or service facility not served by a central storm sewer system, any water which would otherwise cause erosion in excess of the applicable soil-loss limit and which does not carry or constitute sewage or industrial or other waste;

(b) The employment of temporary devices or structures, temporary seeding, fiber mats, plastic, straw, diversions, silt fences, sediment traps, or other measures adequate either to prevent erosion in

excess of the applicable soil-loss limit or to prevent excessive downstream sedimentation from land which is the site of or is directly affected by any nonagricultural land-disturbing activity; or

(c) The establishment and maintenance of vegetation upon the right-of-way of any completed portion of any public street, road, or highway or the construction or installation thereon of permanent structures or devices or other measures adequate to prevent erosion of the right-of-way in excess of the applicable soil-loss limit;

(6) Farm unit conservation plan shall mean a plan jointly developed by the owner and, if appropriate, the operator of a farm unit and the natural resources district within which the farm unit is located based upon the determined conservation needs for the farm unit and identifying the soil and water conservation practices which may be expected to prevent soil loss by erosion from that farm unit in excess of the applicable soil-loss limit. The plan may also, if practicable, identify alternative practices by which such objective may be attained;

(7) Nonagricultural land-disturbing activity shall mean a land change including, but not limited to, tilling, clearing, grading, excavating, transporting, or filling land which may result in soil erosion from wind or water and the movement of sediment and sediment-related pollutants into the waters of the state or onto lands in the state but shall not include the following:

(a) Activities related directly to the production of agricultural, horticultural, or silvicultural crops, including, but not limited to, tilling, planting, or harvesting of such crops;

(b) Installation of aboveground public utility lines and connections, fenceposts, sign posts, telephone poles, electric poles, and other kinds of posts or poles;

(c) Emergency work to protect life or property; and

(d) Activities related to the construction of housing, industrial, and commercial developments;

(8) Person shall mean any individual, † partnership, limited liability company, † firm, † association, † joint venture, † public or private corporation, trust, estate, commission, board, institution, utility, ~~or~~ cooperative, † municipality or other political subdivision of this state, † interstate body, † or other legal entity;

(9) Soil and water conservation practice shall mean a practice which serves to prevent erosion of soil by wind or water in excess of the applicable soil-loss limit from land used only for agricultural, horticultural, or silvicultural purposes. Soil and water conservation practice shall include, but not be limited to:

(a) Permanent soil and water conservation practice including the planting of perennial grasses, legumes, shrubs, or trees, the establishment of grassed waterways, the construction of terraces, and other permanent soil and water practices approved by the district; and

(b) Temporary soil and water conservation practice including the planting of annual or biennial crops, use of strip-cropping, contour planting, minimum or mulch tillage, and other cultural practices

approved by the district; and

(10) Soil-loss limit shall mean the maximum amount of soil loss due to erosion by wind or water, expressed in terms of tons per acre per year, which is determined to be acceptable in accordance with the Erosion and Sediment Control Act.

Sec. 81. That section 2-4802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-4802. As used in the Farm Mediation Act, unless the context otherwise requires:

(1) Administrator shall mean the Department of Agriculture or any other appropriate state agency designated by the Governor;

(2) Borrower shall mean an individual, limited liability company, corporation, trust, cooperative, joint venture, or other entity entitled to contract who is engaged in farming or ranching, who derives more than fifty percent of his or her gross income from farming or ranching, and who holds an agricultural loan;

(3) Creditor shall mean any individual, organization, cooperative, partnership, limited liability company, trust, or state or federally chartered corporation to whom an agricultural loan is owed;

(4) Farm mediation service shall mean an entity with which the administrator contracts to conduct mediation and related services pursuant to the act;

(5) Mediation shall mean a process by which creditors and borrowers present, discuss, and explore practical and realistic alternatives to the resolution of a borrower's debts; and

(6) Mediator shall mean anyone responsible for and engaged in the performance of mediation pursuant to the act.

Sec. 82. That section 3-101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-101. (1) For the purpose of the laws of this state relating to aeronautics, the following words, terms, and phrases shall have the meanings herein given in this section, unless otherwise specifically defined; or unless another intention clearly appears; or the context otherwise requires.

(2) Aeronautics means transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants, and accessories, including the repair, packing, and maintenance of parachutes; and the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities, and air instruction.

(3) Aircraft means any contrivance now known, or hereafter invented, used, or designed for navigation of or flight in the air.

(4) Public aircraft means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory, or possession of the United States; or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(5) Civil aircraft means any aircraft other than a public aircraft.

(6) Airport means (a) any area of land or water, except a restricted landing area, which is designed for the landing and takeoff of aircraft, whether or not facilities are provided for the sheltering, servicing, or repairing of aircraft or for receiving or discharging passengers or cargo; (b) all appurtenant areas used or suitable for airport buildings or other airport facilities; and (c) all appurtenant rights-of-way, whether heretofore or hereafter established.

(7) Department means the Department of Aeronautics, ~~as defined in section 3-103~~; commissioner means the Nebraska Aeronautics Commission; (b) commissioner means any member of the commission; director means the Director of Aeronautics, ~~of this state~~; and state or this state means the State of Nebraska.

(8) Restricted landing area means any area of land, water, or both, which is used or is made available for the landing and takeoff of aircraft, the use of which shall, except in case of emergency, be only as provided from time to time by the commission.

(9) Air navigation facility means any facility, other than one owned or controlled by the federal government, used in, available for use in, or designed for use in, aid of air navigation, including airports, restricted landing areas, and any structures, mechanisms, lights, beacons, marks, communicating systems; or other instrumentalities or devices used or useful as an aid; or constituting an advantage or convenience; to the safe takeoff, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; and any combination of any or all of such facilities.

(10) Air navigation means the operation or navigation of aircraft in the air space over this state or upon any airport or restricted landing area within this state.

(11) Operation of aircraft or operate aircraft means the use of aircraft for the purpose of air navigation; and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control, (in the capacity of owner, lessee, or otherwise,) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state.

(12) Airman means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way and, (excepting individuals employed outside the United States, any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to perform duties as inspector or mechanic in connection therewith, and any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him) or her, any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or airtraffic control-tower operator.

(13) Air instruction means the imparting of aeronautical information by any aeronautics instructor or in or by any air school or flying club.

(14) Aeronautics instructor means any individual engaged in giving instruction, or offering to give instruction, in aeronautics, either in flying or ground subjects, or both, for hire or reward, without advertising such occupation, without calling his or her facilities an air school or anything equivalent thereto, and without employing or using other instructors. It does not include any instructor in any public school or university of this state; or any institution of higher learning duly accredited and approved for carrying on collegiate work; while engaged in his or her duties as such instructor.

(15) Flying club means any person, other than an individual, who, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction or pleasure or both.

(16) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(17) State airway means a route in the navigable air space over and above the lands or waters of this state, designated by the department as a route suitable for air navigation.

(18) Navigable air space means air space above the minimum altitudes of flight prescribed by the laws of this state or by the regulations of the department consistent therewith.

(19) Municipality means any county, city, village, or town of this state and any other political subdivision, public corporation, authority, or district in this state which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports and other air navigation facilities.

(20) Airport protection privileges means easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the landing areas of airports and restricted landing areas and the safe and efficient operation thereof.

(21) Airport hazard means any structure, object of natural growth, or use of land; which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off.

(22) The singular shall include the plural; and the plural the singular. The masculine gender shall include the feminine.

(23) Location shall mean the general vicinity to be served by a specific airport.

(24) Site shall mean the specific land area to be used as an airport.

Sec. 83. That section 3-150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-150. Any person, firm, partnership, limited liability company, company, agency, corporation, body politic, municipality, or National Guard or reserve officer of the United States Army who buys and uses aircraft fuel meeting the specifications set by the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue, bought for and used only in aircraft in connection with any air school approved by the federal government, on which the tax has been paid or which is chargeable under section 3-148 and who consumes the same for purposes of operating or propelling aircraft used strictly for air school purposes shall be reimbursed the amount of tax so paid in the manner and subject to the conditions provided in this section and section 3-151.

Sec. 84. That section 3-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-301. ~~As used in sections 3-301 to 3-333~~ For purposes of the Airport Zoning Act, unless the context otherwise requires:

(1) Airport means any area of land or water designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes;

(2) Airport hazard means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off of aircraft;

(3) Airport hazard area means any area of land or water upon which an airport hazard might be established if not prevented as provided in ~~sections 3-301 to 3-333~~ the act, but such area shall not extend in any direction a distance in excess of three miles from the adjacent boundary of an airport;

(4) Political subdivision means any municipality, city, village, or county;

(5) Person means any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof;

(6) Structure means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines; and

(7) Tree means any object of natural growth.

Sec. 85. That section 3-402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

3-402. As used in sections 3-401 to 3-409, unless the context otherwise requires:

(1) Structure shall mean any manmade object which is built, constructed, projected, or erected upon, from, and above the surface of the earth, including, but not limited to, towers, antennas, buildings, wires, cables, and chimneys;

(2) Obstruction shall mean any structure which obstructs the air space required for the flight of aircraft and in the landing and taking off of aircraft at any airport or restricted landing area; and

(3) Person shall mean any public utility, public district, or other governmental division or subdivision; or any person, corporation, ~~or~~ partnership, or limited liability company.

Sec. 86. That section 8-140, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-140. No director, officer, or employee of any bank, no corporation in which an officer or director of the bank is the owner of a controlling interest, ~~and~~ no partnership in which an officer or director of the bank is a member, and no limited liability company in which an officer or director of the bank is a member shall borrow any of the funds of the bank, directly or indirectly, without first having secured the approval of the board of directors at a meeting thereof, the record of which shall be made and kept as part of the records of such bank. An executive officer licensed as such pursuant to section 8-139 may, with such approval, borrow from the funds of the bank an amount not to exceed twenty thousand dollars, except that subject to sections 8-141 and 8-152 and with the specific prior approval of the board of directors, a bank (1) may make an additional loan for any amount for any purpose to any executive officer of the bank if at the time the loan is made it is secured by a lien, providing an equity as the Director of Banking and Finance shall by rule and regulation provide, on a dwelling which is, after making of the loan, owned or to be owned by the executive officer and used by him or her as a residence and (2) may make an additional loan not exceeding twenty thousand dollars to any executive officer of the bank to finance the education of such executive officer's children. Any director who is not an executive officer, any honorary officer, or any employee of the bank may borrow from the funds of the bank such amount as the board of directors shall approve. If any executive officer of any bank borrows from or if he or she is or becomes indebted to any other financial institution, such executive officer shall by the next regularly scheduled meeting of the board of directors make a written report to the board of directors of the bank of which he or she is an executive officer stating the date and amount of such loan or indebtedness, the security therefor, and the purpose for which the proceeds have been or are to be used. Any officer, director, or employee of a bank or any other person who shall intentionally violate this section or who shall aid, abet, or assist in a violation thereof shall be guilty of a Class IV felony.

For purposes of this section, executive officer shall mean a person who participates or has authority to participate, other than in the capacity of a director, in major policymaking functions of the bank whether or not the officer has an official title, the title designates the officer as an assistant, or the officer is serving without salary or other compensation. Executive officer shall include the chairperson of the board, the president, every vice president, the cashier, the corporate secretary, and the treasurer, unless the officer is excluded by resolution of the board of directors or by the bylaws of the bank from participating, other than in the capacity of a director, in major policymaking functions of the bank and the officer does not actually participate in such functions.

A manager or assistant manager of a branch of a bank shall not be considered to be an executive officer unless such individual participates or is authorized to participate in major policymaking functions of the bank.

Any loans made pursuant to this section shall be subject to the lending limit set forth in section 8-141.

Sec. 87. That section 8-141, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 81, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

8-141. (1) No bank shall directly or indirectly loan to any single corporation, limited liability company, firm, or individual, including in such loans all loans made to the several members or shareholders of such firm, limited liability company, or corporation, for the use and benefit of such corporation, limited liability company, firm, or individual, more than twenty-five percent of the paid-up capital, surplus, and capital notes and debentures of such bank. Such limitation of twenty-five percent shall be subject to the following exceptions:

(a) Obligations of any person, partnership, limited liability company, association, or corporation in the form of notes or drafts secured by shipping documents or instruments transferring or securing title covering livestock or giving a lien on livestock, when the market value of the livestock securing the obligation is not at any time less than one hundred fifteen percent of the face amount of the notes covered by such documents, shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures, in addition to such twenty-five percent of such capital and surplus;

(b) Obligations of any person, partnership, limited liability company, association, or corporation secured by not less than a like amount of bonds or notes of the United States issued since April 24, 1917, or certificates of indebtedness of the United States, treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures, in addition to such twenty-five percent of such capital and surplus; or

(c) Obligations of any person, partnership, limited liability company, association, or corporation which are secured by negotiable warehouse receipts in an amount not less than one hundred fifteen percent of the face amount of the note or notes secured by such documents shall be subject under this section to a limitation of ten percent of such capital, surplus, and capital notes and debentures, in addition to such twenty-five percent of such capital and surplus.

(2) For purposes of this section, the discounting of bills of exchange, drawn in good faith against actually existing values, and the discounting of commercial paper actually owned by the persons negotiating the same shall not be considered as the lending of money. Loans or obligations shall not be subject to any limitation under this section, based upon such capital stock and surplus, to the extent that they are secured or covered by guaranties, or by commitments or agreements

to take over or to purchase the same, made by any federal reserve bank or by the United States Government or any authorized agency thereof, including any corporation wholly owned directly or indirectly by the United States, or general obligations of any state of the United States or any political subdivision thereof. The phrase general obligation of any state or any political subdivision thereof shall mean an obligation supported by the full faith and credit of an obligor possessing general powers of taxation, including property taxation, but shall not include municipal revenue bonds and sanitary and improvement district warrants which shall be subject to the limitations set forth in this section. Any bank may subscribe to, invest in, purchase, and own single-family mortgages secured by the Federal Housing Administration or the United States Department of Veterans Affairs and mortgage-backed certificates of the Government National Mortgage Association which are guaranteed as to payment of principal and interest by the Government National Mortgage Association. Such mortgages and certificates shall not be subject under this section to any limitation based upon such capital and surplus. Obligations representing loans to any national banking association or to any banking institution organized under the laws of any state, when such loans are approved by the Director of Banking and Finance by regulation or otherwise, shall not be subject under this section to any limitation based upon such capital and surplus. Loans or extensions of credit secured by a segregated deposit account in the lending bank shall not be subject under this section to any limitation based on such capital and surplus. The department may adopt and promulgate rules and regulations governing the terms and conditions of such security interest and segregated deposit account. For the purpose of determining lending limits, partnerships shall not be treated as separate entities. Each individual shall be charged with his or her personal debt plus the debt of every partnership in which he or she is a partner, except that for purposes of this section, no individual shall be charged with the debt of any limited partnership in which he or she is a partner if the terms of the limited partnership agreement provide that such individual is not to be held liable for the debts or actions of such limited partnership.

(3) A loan made within lending limits at the initial time the loan was made may be renewed, extended, or serviced without regard to changes in the lending limit of a bank following the initial extension of the loan if (a) the renewal, extension, or servicing of the loan does not result in the extension of funds beyond the initial amount of the loan or (b) the accrued interest on the loan is not added to the original amount of the loan in the process of renewal, extension, or servicing.

Sec. 88. That section 8-148.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-148.02. Any bank may subscribe to, invest, buy, and own stock in any agricultural credit corporation or livestock loan company, or its affiliate, the principal business of which corporation must be the extension of short and intermediate term credit to farmers and ranchers, including partnerships, limited liability companies, and

corporations engaged in farming and ranching, for agricultural purposes, including the breeding, raising, fattening, or marketing of livestock. Such bank shall not obligate more than thirty-five percent of its paid-up capital, surplus, undivided profits, capital reserves, capital notes, and debentures for such purposes, except that if such bank owns at least eighty percent of the voting stock of such agricultural credit corporation or livestock loan company, such limitation on the amount of obligation for such purposes shall not apply. Such subscription, investment, possession, or ownership shall not be subject to the provisions of sections 8-148, 8-149, and 8-150.

Sec. 89. That section 8-364, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-364. Foreign association shall mean any firm, company, association, partnership, limited liability company, or corporation actually engaged in the business of a savings and loan association; which is not organized under the laws of this state or of the United States.

Sec. 90. That section 8-409.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-409.01. No director, officer, or employee of an industrial loan and investment company, no corporation in which an officer of the industrial loan and investment company is the owner of a controlling interest, ~~and~~ no partnership in which an officer of the industrial loan and investment company is a member, and no limited liability company in which an officer of the industrial loan and investment company is a member shall borrow any of the funds of the industrial loan and investment company, directly or indirectly, without first having secured the approval of the board of directors of such industrial loan and investment company. The approval shall be made at a meeting of the board and a record of such approval shall be made and kept as part of the records of such company. The amount of any loan shall be limited as provided in sections 8-409 and 8-409.02.

Sec. 91. That section 8-501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-501. Any corporation, partnership, limited liability company, or person engaged in the business of maintaining and operating safety deposit boxes for storage or deposit for safekeeping of securities or valuables within this state may, in any written lease or contract governing or regulating the use of any such box or boxes by any user or customer, create either the relationship of lessor and lessee or the relationship of bailor and bailee, and to the relationship so created the general laws of the state applicable thereto shall apply, except that where the relationship of lessor and lessee is created the liability of the lessor may be limited in any or all of the following particulars:

(1) By limitation of liability for any loss to the lessee for and on account of negligence on the part of the lessor, his, her, or its agents or servants, to such maximum amount as may be stipulated, not less, however, than three hundred times the annual rental of such box or boxes;

(2) By limitation of the use of such safety deposit box or

boxes to exclude therefrom money, currency, jewelry, or securities payable to bearer and other tangible property of value and choses in action; and to provide that if any such money, currency, jewelry, securities payable to bearer, or other tangible property of value, or choses in action, are placed therein by the lessee, the lessee shall assume the entire risk of loss thereof or damage thereto without any liability on the part of the lessor for any such loss or damage in any event or for any cause whatsoever;

(3) By stipulation by the parties that evidence tending to prove that property left in any such safety deposit box upon the last entry by the lessee or his or her authorized agent or any part thereof was found missing upon subsequent entry shall not raise any presumption that the same was lost by any negligence or wrongdoing on the part of the lessor, his, her, or its agents or servants; or to put upon the lessor of such safety deposit box the burden of proof that such alleged loss was not the fault of the lessor.

Sec. 92. That section 8-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-902. As used in the Bank Holding Company Act of 1963, unless the context otherwise requires:

(1) Bank shall mean any national bank doing business in this state or any bank which is chartered to conduct a bank in this state as provided by sections 8-115 and 8-116;

(2) Company shall mean any corporation, business trust, association, or similar organization but shall not include:

(a) An individual;

(b) Any partnership; ~~or~~

(c) Any limited liability company; or

(d) Any corporation, the majority of shares of which are owned by the United States or any state;

(3)(a) Bank holding company shall mean any company:

(i) Which directly or indirectly owns or controls twenty-five percent or more of the voting shares of each of two or more banks;

(ii) Which controls in any manner the election of the majority of the directors of each of two or more banks; or

(iii) For the benefit of whose shareholders or members twenty-five percent or more of the voting shares of each of two or more banks or a bank holding company is held by trustees.

(b) Notwithstanding the foregoing:

(i) No estate, trust, guardianship, or conservatorship or fiduciary thereof shall be a bank holding company by virtue of its ownership or control of shares of stock of banks as herein defined if such trust is not a business trust or voting trust. It shall be unlawful for any such estate, trust, guardianship, or conservatorship to acquire, by purchase, ownership or control of twenty-five percent or more of the shares of any additional bank;

(ii) No company shall be a bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of bank shares and which are held only for such

period of time as will permit the sale thereof on a reasonable basis; and

(iii) No company shall be a bank holding company by virtue of its ownership or control of shares acquired and held in the ordinary course of securing or collecting a debt previously contracted in good faith;

(4) Nebraska bank shall mean a bank which, on and after January 1, 1990, (a) has its principal office located in Nebraska, (b) has held, for the previous three hundred sixty-five days, more than fifty percent of its total deposits in Nebraska, and (c) is not directly or indirectly controlled by another company which has not held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of its bank subsidiaries in Nebraska;

(5) Nebraska bank holding company shall mean a bank holding company which, on and after January 1, 1990, (a) has its principal office located in Nebraska, (b) has held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of all of its subsidiaries in Nebraska, and (c) is not directly or indirectly controlled by another company which has not held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of its bank subsidiaries in Nebraska;

(6) Regional out-of-state bank shall mean a bank which, on and after January 1, 1990, (a) has its principal office located in one of the north-central states, (b) has held, for the previous three hundred sixty-five days, more than fifty percent of its total deposits in one or more of the north-central states, and (c) is not directly or indirectly controlled by another company which has not held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of its bank subsidiaries in Nebraska or one of the north-central states;

(7) Regional out-of-state bank holding company shall mean a bank holding company which, on and after January 1, 1990, (a) has its principal office located in one of the north-central states, (b) has held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of all of its subsidiaries in one or more of the north-central states, and (c) is not directly or indirectly controlled by another company which has not held, for the previous three hundred sixty-five days, more than fifty percent of the total deposits of its bank subsidiaries in Nebraska or one of the north-central states; and

(8) North-central states shall mean the states of Wisconsin, Minnesota, North Dakota, Montana, South Dakota, Wyoming, Colorado, Kansas, Iowa, and Missouri.

Sec. 93. That section 8-903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-903. It shall be unlawful for any action to be taken after March 12, 1963, which results in a company becoming a bank holding company as defined in section 8-902. Nothing in the Bank Holding Company Act of 1963 shall prohibit (1) a bank holding company or a company which owns only one bank which is not a bank holding company as defined in section 8-902, (2) a bank holding company as

defined in section 8-1202, (3) an out-of-state bank holding company as defined in 12 U.S.C. 1842(d) as it exists on August 26, 1983, and which on March 12, 1963, owned at least two banks in this state, or (4) on or after January 1, 1990, a bank holding company as defined or referred to in 12 U.S.C. 1842(d) and which is a regional out-of-state bank holding company incorporated and domiciled in a north-central state which authorizes the acquisition or control of banks in that state by a Nebraska bank or Nebraska bank holding company under conditions no more restrictive than those imposed by the laws of Nebraska, except that any out-of-state bank or bank holding company shall not have a name deceptively similar to an existing Nebraska bank or Nebraska bank holding company, as determined by the Director of Banking and Finance, from directly or indirectly owning or controlling more than twenty-five percent of the voting shares of any bank or the power to control in any manner the election of a majority of the directors of any bank unless upon such acquisition the banks so owned or controlled in Nebraska would have deposits in Nebraska greater than an amount equal to thirteen percent on January 1, 1991, and fourteen percent on January 1, 1992, of the total deposits of all banks in this state plus the total deposits, savings accounts, passbook accounts, and shares in savings and loan associations and building and loan associations in this state as determined by the Director of Banking and Finance on the basis of the most recent calendar-year-end reports. If any person, association, partnership, limited liability company, or corporation owns twenty-five percent or more of the voting stock of any bank holding company acquiring a bank and any such person, association, partnership, limited liability company, or corporation owns twenty-five percent or more of the voting stock of any other bank or bank holding company in Nebraska, then the total deposits of such other bank or banks and of all banks owned or controlled by such bank holding company in Nebraska shall be included in the computation of the total deposits of a bank holding company acquiring a bank. Except as provided in subsection (3) of section 8-157, no bank holding company shall be allowed to own or control more than nine banks located in the State of Nebraska at any time after August 26, 1983. A bank holding company, including an out-of-state or regional out-of-state bank holding company, may not acquire any bank which has been chartered by this state or the Comptroller of the Currency of the United States of America for less than five years. A bank which acquires and holds all or substantially all of the voting stock of one newly established bank under sections 8-1512 and 8-1513 shall not have such acquisition count against the total deposit limitation or bank acquisition limitation imposed by this section, nor shall such acquisition be limited, restricted, or disallowed by any other prohibition imposed by this section. A bank holding company or out-of-state bank holding company which acquires an institution or which forms a bank which acquires an institution under sections 8-1506 to 8-1510 or which acquires any assets and liabilities from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation shall not have such acquisition or formation count against the total deposits

limitation or bank acquisition limitation imposed by this section, nor shall such acquisition or formation be limited, restricted, or disallowed by any other prohibition imposed by this section, except that any such acquisition which occurs under sections 8-1506 to 8-1510 or from the Resolution Trust Corporation or the Federal Deposit Insurance Corporation after January 1, 1994, shall count against the total deposits limitation and the total bank acquisition limitation imposed by this section.

Sec. 94. That section 8-1001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1001. ~~As used in sections 8-1001 to 8-1015~~ For purposes of the Nebraska Sale of Checks Act, unless the context otherwise requires:

(1) Person shall mean any individual, partnership, limited liability company, association, joint-stock association, trust, or corporation, but ~~does shall~~ not include the United States Government or the government of the State of Nebraska;

(2) Licensee shall mean any person duly licensed pursuant to ~~sections 8-1001 to 8-1015~~ the act;

(3) Check shall mean any check, draft, money order, personal money order, or other instrument for the transmission or payment of money;

(4) Personal money order shall mean any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his or her agent for the receipt, transmission, or handling of money, whether such instrument ~~be is~~ signed by the seller, ~~or~~ by the purchaser or remitter, or by some other person; and

(5) Director shall mean the Director of Banking and Finance.

Sec. 95. That section 8-1005, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1005. Each application for such license shall be made in writing, under oath, to the director in such form as he or she may prescribe. The application shall state the full name and business address of:

(1) The proprietor, if the applicant is an individual;

(2) Every member, if the applicant is a partnership, limited liability company, or association, except that if the applicant is a joint-stock association having fifty or more members, the name and business address need be given only of the association and each officer and director thereof;

(3) Every trustee and officer if the applicant is a trust; or

(4) The corporation and each officer and director thereof, if the applicant is a corporation.

Sec. 96. That section 8-1101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1101. For purposes of the Securities Act of Nebraska, unless the context otherwise requires:

(1) Director shall mean the Director of Banking and Finance of the State of Nebraska except as further provided in section 8-1120;

(2) Agent shall mean any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect sales of securities, but agent shall not include an individual who represents an issuer in (a) effecting a transaction in a security exempted by subdivision (8), (9), or (10) of section 8-1110, (b) effecting certain transactions exempted by section 8-1111, or (c) effecting transactions with existing employees, partners, or directors of the issuer or any of its subsidiaries if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state. A partner, member, officer, or director of a broker-dealer shall be an agent only if he or she otherwise comes within this definition;

(3) Broker-dealer shall mean any person engaged in the business of effecting transactions in securities for the account of others or for his or her own account. Broker-dealer shall not include (a) an issuer-dealer, agent, bank, savings institution, or trust company, (b) a person who has no place of business in this state if he or she effects transactions in this state exclusively with or through the issuers of the securities involved in the transactions, other broker-dealers, or banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (c) a person who has no place of business in this state if during any period of twelve consecutive months he or she does not direct more than fifteen offers to sell or to buy into this state in any manner to persons other than those specified in subdivision (3)(b) of this section;

(4) Guaranteed shall mean guaranteed as to payment of principal, interest, or dividends;

(5) Investment adviser shall mean any person who for compensation engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities or who for compensation and as a part of a regular business issues or promulgates analyses or reports concerning securities. Investment adviser shall not include (a) a bank, savings institution, or trust company, (b) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his or her profession, (c) a broker-dealer, (d) an issuer-dealer, (e) a publisher of any bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation, (f) a person whose advice, analyses, or reports relate only to securities exempted by subdivision (1) of section 8-1110, (g) a person who has no place of business in this state if his or her only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940,

pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or during any period of twelve consecutive months he or she does not direct business communications into this state in any manner to more than five clients other than those specified in this subdivision (g), or (h) such other persons not within the intent of this subdivision as the director may by rule, regulation, or order designate;

(6) Issuer shall mean any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors, or persons performing similar functions, or of the fixed, restricted management, or unit type, the term issuer shall mean the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued;

(7) Issuer-dealer shall mean (a) any issuer located in the State of Nebraska or (b) any issuer which registered its securities by qualification who proposes to sell to the public of the State of Nebraska the securities that it issues without the benefit of another registered broker-dealer. Such securities shall have been approved for sale in the State of Nebraska pursuant to section 8-1104;

(8) Nonissuer shall mean not directly or indirectly for the benefit of the issuer;

(9) Person shall mean an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(10) Sale or sell shall include every contract of sale of, contract to sell, or disposition of a security or interest in a security for value. Offer or offer to sell shall include every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value. Any security given or delivered with or as a bonus on account of any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock shall be considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, shall be considered to include an offer of the other security;

(11) Securities Act of 1933, Securities Exchange Act of 1934, Public Utility Holding Company Act of 1935, and Investment Company Act of 1940 shall mean the federal statutes of those names as amended before or after August 18, 1965;

(12) Security shall mean any note, stock, treasury stock, bond, debenture, units of beneficial interest in a real estate trust, evidence

of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, in general any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, guarantee of, or warrant or right to subscribe to or purchase any of the foregoing. Security shall not include any insurance or endowment policy or annuity contract issued by an insurance company; and

(13) State shall mean any state, territory, or possession of the United States as well as the District of Columbia and Puerto Rico.

Sec. 97. That section 8-1103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1103. (1) It shall be unlawful for any person to transact business in this state as a broker-dealer, issuer-dealer, or agent, except in certain transactions exempt under section 8-1111, unless he or she is registered under the Securities Act of Nebraska. It shall be unlawful for any broker-dealer to employ an agent for purposes of effecting or attempting to effect transactions in this state unless the agent is registered. It shall be unlawful for an issuer to employ an agent unless the issuer is registered as an issuer-dealer and unless the agent is registered. It shall be unlawful for any person to transact business in this state as an investment adviser unless (a) he or she is registered as an investment adviser under this section, (b) he or she is registered as a broker-dealer under this section, or (c) his or her only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies.

(2) A broker-dealer, issuer-dealer, agent, or investment adviser may apply for registration by filing with the director an application together with a consent to service of process pursuant to section 8-1112 and payment of the fee prescribed in subsection (5) of this section. Registration of a broker-dealer or issuer-dealer shall automatically constitute registration of all partners, members, officers, or directors of such broker-dealer or issuer-dealer as agents, except any partner, member, officer, or director whose registration as an agent is denied, suspended, or revoked under subsection (7) of this section, without the filing of applications for registration as agents or the payment of fees for registration as agents. The application shall contain whatever information the director requires concerning such matters as:

(a) The applicant's form and place of organization;

(b) The applicant's proposed method of doing business;

(c) The qualifications and business history of the applicant and, in the case of a broker-dealer or investment adviser, any partner, member, officer, or director;

(d) Any injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business

and any conviction of a felony; and

(e) The applicant's financial condition and history.

(3)(a) If no denial order is in effect and no proceeding is pending under subsection (7) of this section, registration shall become effective at noon of the thirtieth day after an application is filed. The director may specify an earlier effective date, and he or she may by order defer the effective date until noon of the thirtieth day after the filing of any amendment.

(b) The director shall require as conditions of registration:

(i) That the applicant, except for renewal, and, in the case of a corporation, ~~or~~ partnership, or limited liability company, the officers, directors, ~~or~~ partners, or members pass such examination or examinations as the director may prescribe as evidence of knowledge of the securities business;

(ii) That an issuer-dealer and its agents pass an examination prescribed and administered by the Department of Banking and Finance. Such examination shall be administered upon request and upon payment of an examination fee of five dollars. Any applicant for issuer-dealer registration who has satisfactorily passed any other examination approved by the director shall be exempted from this requirement upon furnishing evidence of satisfactory completion of such examination to the director; and

(iii) That a broker-dealer or issuer-dealer have a minimum net capital of twenty-five thousand dollars. In lieu of a minimum net capital requirement of twenty-five thousand dollars, the director may require a broker-dealer or issuer-dealer to post a corporate surety bond with surety licensed to do business in Nebraska in an amount equal to such capital requirements. When the director finds that a surety bond with a surety company would cause an undue burden on an issuer-dealer, the director may require the issuer-dealer to post a signature bond. Every such surety bond shall run in favor of Nebraska, shall provide for suit thereon by any person who has a cause of action under section 8-1118, and shall provide that no suit may be maintained to enforce any liability on the bond unless brought within two years after the sale or other act upon which it is based.

(c) The director may waive the requirement of an examination for any applicant who by reason of prior experience can demonstrate his or her knowledge of the securities business. Registration of a broker-dealer, issuer-dealer, agent, or investment adviser shall be effective for a period of one year and may be renewed as provided in this section. The registration of an agent shall not be effective during any period when he or she is not associated with a registered broker-dealer or issuer-dealer specified in his or her application or a notice filed with the director. When an agent begins or terminates a connection with a registered broker-dealer or issuer-dealer, the agent and the broker-dealer or issuer-dealer shall promptly notify the director.

(4) Registration of a broker-dealer, issuer-dealer, agent, or investment adviser may be renewed by filing with the director prior to the

expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, issuer-dealer, agent, or investment adviser filed with the director by the applicant, payment of the prescribed fee, and, in the case of a broker-dealer or issuer-dealer, a financial statement showing the financial condition of such broker-dealer or issuer-dealer as of a date within ninety days.

(5) The fee for initial or renewal registration shall be two hundred fifty dollars for a broker-dealer, two hundred dollars for an investment adviser, one hundred dollars for an issuer-dealer, and forty dollars for an agent. When an application is denied or withdrawn, the director shall retain all of the fee.

(6) Every registered broker-dealer, issuer-dealer, and investment adviser shall make and keep such accounts and other records, except with respect to securities exempt under subdivision (1) of section 8-1110, as the director prescribes. All records so required shall be preserved for three years unless the director prescribes otherwise for particular types of records. All the records of a registered broker-dealer, issuer-dealer, or investment adviser shall be subject at any time or from time to time to such reasonable periodic, special, or other examinations by representatives of the director, within or without this state, as the director deems necessary or appropriate in the public interest or for the protection of investors.

(7)(a) The director may by order deny, suspend, or revoke registration of any broker-dealer, issuer-dealer, agent, or investment adviser if he or she finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer, issuer-dealer, or investment adviser, any partner, member, officer, or director:

(i) Has filed an application for registration under this section which, as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(ii) Has willfully violated or willfully failed to comply with any provision of the Securities Act of Nebraska or a predecessor act or any rule, regulation, or order adopted and promulgated pursuant to the act or a predecessor act;

(iii) Has been convicted, within the past ten years, of any misdemeanor involving a security or any aspect of the securities business or any felony;

(iv) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(v) Is the subject of an order of the director denying, suspending, or revoking registration as a broker-dealer, issuer-dealer, agent, or investment adviser;

(vi) Is the subject of an order entered within the past five

years by the securities administrator of any other state or by the Securities and Exchange Commission denying or revoking registration as a broker-dealer or agent or the substantial equivalent of those terms as defined in section 8-1101, is the subject of an order of the Securities and Exchange Commission suspending or expelling him or her from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order. The director may not institute a revocation or suspension proceeding under this subdivision more than one year from the date of the order relied on, and he or she may not enter any order under this subdivision on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

(vii) Has engaged in dishonest or unethical practices in the securities business;

(viii) Is insolvent, either in the sense that his or her liabilities exceed his or her assets or in the sense that he or she cannot meet his or her obligations as they mature, but the director may not enter an order against a broker-dealer, issuer-dealer, or investment adviser under this subdivision without a finding of insolvency as to the broker-dealer, issuer-dealer, or investment adviser;

(ix) Has not complied with a condition imposed by the director under subsection (3) of this section or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business;

(x) Has failed to pay the proper filing fee, but the director may enter only a denial order under this subdivision, and he or she shall vacate any such order when the deficiency has been corrected; or

(xi) Has been denied the right to do business or his or her respective authority to do business has been revoked by any other governmental agency for cause.

(b) The director may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him or her when registration became effective. The director may by order summarily postpone or suspend registration pending final determination of any proceeding under this subsection. Upon the entry of the order, the director shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons therefor and that within fifteen business days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested within fifteen business days of the issuance of the order and none is ordered by the director, the order shall automatically become a final order and shall remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing, shall enter his or her written findings of fact and conclusions of law and may affirm, modify, or vacate the order. No order may be entered under this section denying or revoking registration without appropriate prior notice

to the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent, and opportunity for hearing.

(c) If the director finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, issuer-dealer, investment adviser, or agent, is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the director may by order cancel the registration or application.

Sec. 98. That section 8-1109, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1109. The director may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, a registration statement to register securities by notification or coordination if he or she finds that the order is in the public interest and that:

(1) Any such registration statement registering securities, as of its effective date or as of any earlier date in the case of an order denying effectiveness, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) Any provision of the Securities Act of Nebraska or any rule, order, or condition lawfully imposed under the act has been violated, in connection with the offering by the person filing the registration statement, the issuer, any partner, member, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer or any underwriter;

(3) The security registered or sought to be registered is the subject of a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering. The director may not institute a proceeding against an effective registration statement under this subdivision more than one year from the date of the injunction relied on, and he or she may not enter an order under this subdivision on the basis of an injunction entered under any other state act unless the injunction was based on facts which would currently constitute a ground for a stop order under this section;

(4) When a security is sought to be registered by notification, it is not eligible for such registration;

(5) When a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by subdivision (2)(g) of section 8-1106;

(6) The applicant or registrant has failed to pay the proper registration fee. The director may enter only a denial order under this subdivision and shall vacate any such order when the deficiency has been corrected. The director may not enter an order against an effective registration statement on the basis of a fact or transaction known to him or her when the registration statement became effective;

(7) The authority of the applicant or registrant to do business has been denied or revoked by any other governmental agency;

(8) The issuer's or registrant's literature, circulars, or advertising is misleading, incorrect, incomplete, or calculated to deceive the purchaser or investor;

(9) All or substantially all the enterprise or business of the issuer, promoter, or guarantor has been found to be unlawful by a final order of a court or administrative agency of competent jurisdiction; or

(10) There is a refusal to furnish information required by the director within a reasonable time to be fixed by the director.

Sec. 99. That section 8-1118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1118. (1) Any person who offers or sells a security in violation of section 8-1104 or offers or sells a security by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in the light of the circumstances under which they are made not misleading, the buyer not knowing of the untruth or omission, and who does not sustain the burden of proof that he or she did not know and in the exercise of reasonable care could not have known of the untruth or omission, shall be liable to the person buying the security from him or her, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at six percent per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he or she no longer owns the security. Damages shall be the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at six percent per annum from the date of disposition.

(2) Every person who directly or indirectly controls a seller liable under subsection (1) of this section, every partner, member, officer, or director, or person occupying a similar status or performing similar functions, or employee of such a seller who materially aids in the sale, and every broker-dealer, issuer-dealer, or agent who materially aids in the sale shall also be liable jointly and severally with and to the same extent as the seller, unless the nonseller who is so liable sustains the burden of proof that he or she did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There shall be contribution as in cases of contract among the several persons so liable.

(3) Any tender specified in this section may be made at any time before entry of judgment. Every cause of action under sections 8-1101 to 8-1124 the Securities Act of Nebraska shall survive the death of any person who might have been a plaintiff or defendant. No person may sue under this section more than two years after the contract of sale. No person may sue under this section (a) if the buyer received a written offer, before suit and at a time when he or she owned the security, to refund the consideration paid together with interest at six percent per

annum from the date of payment, less the amount of any income received on the security, and ~~he~~ the buyer failed to accept the offer within thirty days of its receipt, or (b) if the buyer received such an offer before suit and at a time when he ~~or she~~ did not own the security, unless ~~he~~ the buyer rejected the offer in writing within thirty days of its receipt.

(4) No person who has made or engaged in the performance of any contract in violation of any provision of ~~sections 8-1101 to 8-1124~~ the act or any rule or order under ~~sections 8-1101 to 8-1124;~~ the act or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of ~~sections 8-1101 to 8-1124~~ the act or any rule or order under ~~sections 8-1101 to 8-1124~~ the act shall be void.

Sec. 100. That section 8-1202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1202. As used in the One Bank Holding Company Act of 1973, unless the context otherwise requires:

(1) Bank shall mean any national bank doing business in this state or any bank which is chartered to conduct a bank in this state as provided by sections 8-101 to 8-1,129;

(2) Company shall mean any corporation, business trust, association, or similar organization but shall not include:

(a) An individual;

(b) Any partnership; ~~or~~

(c) Any limited liability company; or

(d) Any corporation the majority of shares of which are owned by the United States or any state;

(3) Foreign state agency shall mean any duly constituted regulatory or supervisory agency which has authority over financial institutions and which is created under the laws of any other state, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands or which is operating under the code of law for the District of Columbia; and

(4)(a) One bank holding company shall mean any company:

(i) Which directly or indirectly owns or controls twenty-five percent or more of the voting shares of no more than one bank;

(ii) Which controls in any manner the election of the majority of the directors of no more than one bank; or

(iii) For the benefit of whose shareholders or members twenty-five percent or more of the voting shares of no more than one bank or a one bank holding company is held by trustees.

(b) Notwithstanding the foregoing:

(i) No estate, trust, guardianship, or conservatorship or fiduciary thereof shall be a one bank holding company by virtue of its ownership or control of shares of stock of a bank unless such trust is a

business or voting trust;

(ii) No company shall be a one bank holding company by virtue of its ownership or control of shares acquired by it in connection with its underwriting of bank shares and which are held only for such period of time as will permit the sale thereof on a reasonable basis; and

(iii) No company shall be a one bank holding company by virtue of its ownership or control of shares acquired and held in the ordinary course of securing or collecting a debt previously contracted in good faith.

Sec. 101. That section 8-1301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1301. For the purposes of sections 8-1302 and 8-1303, unless the context otherwise requires:

(1) Fiduciary shall mean a trustee under any trust, expressed, implied, resulting, or constructive, personal representative, administrator, guardian, committee, conservator, curator, tutor, custodian, nominee, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, member, agent, officer of any corporation, public or private, public officer, or any other person acting in a fiduciary capacity for any person, trust, or estate; and

(2) Person shall mean ~~an~~ any individual, ~~a~~ corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, ~~or~~ association, two or more persons having a joint or common interest, or ~~any~~ other legal or commercial entity.

Sec. 102. That section 8-1501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1501. For ~~the~~ purposes of sections 8-1501 to 8-1505, unless the context otherwise requires:

(1) Person shall mean an individual, corporation, partnership, limited liability company, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, or ~~any~~ other form of entity not specifically listed in this subdivision; and

(2) Control shall mean to own directly or indirectly or to control in any manner twenty-five percent or more of the voting shares of any bank, industrial loan and investment company, or holding company or to control in any manner the election of the majority of directors of any bank, industrial loan and investment company, or holding company.

Sec. 103. That section 8-1511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1511. As used in sections 8-1511 to 8-1513, unless the context otherwise requires:

(1) Affiliated bank or thrift institution shall mean (a) if the bank or thrift institution is a subsidiary of a state bank, national banking association, or thrift institution, the parent bank or thrift institution as the case may be and (b) if the bank or thrift institution is a subsidiary of a bank or thrift institution holding company, the principal subsidiary of the holding company which is a bank or thrift institution as the case may be;

(2) Association of banks or thrift institutions shall mean two or more banks or thrift institutions formed for the purpose of acquiring and holding all or substantially all of the voting stock of one newly established bank pursuant to sections 8-1512 and 8-1513;

(3) Bank or banking corporation shall mean the principal office of (a) any national bank doing business in this state, (b) any corporation which is chartered to conduct a bank in this state as provided in Chapter 8, article 1, (c) any association of banks, (d) a bank holding company as defined in section 8-902, or (e) a bank holding company as defined in the Bank Holding Company Act of 1956, as amended, 12 U.S.C. 1841 et seq., or a subsidiary thereof, with bank subsidiaries whose operations are principally conducted in a state other than Nebraska;

(4) Qualifying association shall mean an association, corporation, partnership, limited liability company, or other entity which at all times maintains an office in this state at which it employs at least fifty persons in this state and which pursuant to contract or otherwise offers at least the following services to banks: (a) The distribution, as agent for a bank, of credit cards or transaction cards; (b) the preparation of periodic statements of amounts due under such account; (c) the receipt from credit card or transaction card holders of amounts paid on or with respect to such accounts; and (d) the maintenance of financial records reflecting the status of such accounts from time to time;

(5) Thrift institution shall mean (a) any corporation which is chartered as a building and loan association, savings and loan association, savings bank, credit union, or cooperative credit association under the laws of the United States, any other state, or the District of Columbia and whose operations are principally conducted outside of Nebraska, (b) any holding company of a thrift institution with subsidiaries whose operations are principally conducted outside of Nebraska, or (c) any association of thrift institutions; and

(6) Transaction card shall mean a device or means used to access a prearranged revolving credit plan account.

Sec. 104. That section 8-1714, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1714. Person shall mean an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a trust in which the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government, but shall not include a contract market designated by the Commodity Futures Trading Commission or any clearinghouse thereof or a national securities exchange registered with the Securities and Exchange Commission or any employee, officer, or director of such contract market, clearinghouse, or exchange acting solely in that capacity.

Sec. 105. That section 8-1722, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

8-1722. (1) The act, omission, or failure of any official, agent, or other person acting for any individual, association, partnership,

limited liability company, corporation, or trust within the scope of his or her employment or office shall be deemed the act, omission, or failure of such individual, association, partnership, limited liability company, corporation, or trust as well as of such official, agent, or other person.

(2) Every person who directly or indirectly controls another person liable under any provision of the Commodity Code, every partner, member, officer, or director of such other person, every person occupying a similar status or performing similar functions, and every employee of such other person who materially aids in the violation shall also be liable jointly and severally with and to the same extent as such other person unless the person who is also liable by virtue of this section sustains the burden of proof that he or she did not know and in exercise of reasonable care could not have known of the existence of the facts by reason of which the liability is alleged to exist.

Sec. 106. That section 9-1,104, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 138, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

9-1,104. (1) Any person applying for or holding a contract or license (a) as a distributor, gaming manager, or manufacturer pursuant to the Nebraska Bingo Act, (b) as a distributor, manufacturer, pickle card operator, or sales agent pursuant to the Nebraska Pickle Card Lottery Act, (c) as a lottery operator or manufacturer-distributor pursuant to the Nebraska County and City Lottery Act, or (d) pursuant to the State Lottery Act shall be subject to fingerprinting and a check of his or her criminal history record information maintained by the Identification Division of the Federal Bureau of Investigation through the Nebraska State Patrol for the purpose of determining whether the Department of Revenue has a basis to deny the contract or license application or to suspend, cancel, revoke, or terminate the person's contract or license. Each manufacturer, distributor, manufacturer-distributor, and lottery operator shall also submit a personal history report to the department on a form provided by the department.

(2) If the applicant, party to the contract, or licensee is a corporation or organization, the persons subject to such requirement shall include any officer or director of the corporation or organization, his or her spouse, and, if applicable, any stockholder owning in the aggregate more than ten percent of the stock of the corporation. If any stockholder owning more than ten percent of the stock of the applicant or licensee corporation is a corporation, ~~or~~ partnership, or limited liability company, every partner of such partnership, ~~or~~ officer of such corporation and stockholder owning more than ten percent of the stock of such corporation, or member of a limited liability company shall also be subject to such requirement. If the applicant, party to the contract, or licensee is a partnership, the persons subject to such requirement shall include any partner and his or her spouse. If the applicant, party to the contract, or licensee is a limited liability company, the persons subject to such requirement shall include any member and his or her spouse.

(3) A person applying for or holding a license as a pickle card operator shall be subject to such requirement only if such an investigation has not been performed by the Nebraska Liquor Control Commission.

(4) The applicant, party to the contract, or licensee shall pay the actual cost of any fingerprinting or check of his or her criminal history record information.

(5) Refusal to comply with this section by any person licensed or seeking a license under the Nebraska Bingo Act, the Nebraska County and City Lottery Act, or the Nebraska Pickle Card Lottery Act shall be a violation of the act under which such person is licensed or is seeking licensure.

Sec. 107. That section 9-207.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-207.01. Commercial lessor shall mean a person, partnership, limited liability company, corporation, or organization which owns or is a lessee of premises which are offered for leasing to a licensed organization on which bingo is or will be conducted.

Sec. 108. That section 9-235.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-235.01. (1) An organization licensed to conduct bingo under a Class II license pursuant to section 9-233 shall be required to license a gaming manager. An organization licensed to conduct bingo under a Class I license may license a gaming manager.

(2) No gaming manager licensed under the Nebraska Bingo Act shall be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, corporation, or other party licensed as a distributor under section 9-235 nor shall any such person hold any other licenses issued under the Nebraska Bingo Act or under any other kind of gaming activity which is authorized or regulated under Chapter 9.

Sec. 109. That section 9-316, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-316. Pickle card operator shall mean any sole proprietorship, partnership, limited liability company, or corporation which sells individual pickle cards on behalf of the licensed organization.

Sec. 110. That section 9-329.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-329.01. (1) Prior to applying for a license as a sales agent for a licensed organization, the applicant shall have been an active and bona fide member of the licensed organization for one year preceding the date the application is filed with the department.

(2) No person applying for a license under this section shall hold a license as a sales agent for more than one licensed organization. This subsection shall not prohibit a licensed sales agent from applying for a license to represent another licensed organization as a sales agent if he or she has ceased being a sales agent for and will not continue to market pickle card units on behalf of the organization for which he or she is

currently licensed and has obtained a written release of any legal obligations he or she has to such licensed organization. Such release shall be signed by a person licensed as a member responsible for the utilization of gross proceeds and an officer of the licensed organization and shall state that the sales agent has satisfied all legal obligations he or she has to the licensed organization in connection with the lottery by the sale of pickle cards. When applicable, a copy of the written release shall accompany any application for a license to become a sales agent.

(3) Any sales agent licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, corporation, or other party licensed as a distributor, manufacturer, or pickle card operator under section 9-329.03, 9-330, or 9-332 and, unless such sales agent does not directly or indirectly receive payment of any commission, salary, or fee for the sale, marketing, or delivery of pickle cards on behalf of the licensed organization or any other service on behalf of the licensed organization, shall not be a director, manager, trustee, or member of any governing committee, board, or body of the licensed organization on behalf of which the sales agent sells pickle card units.

Sec. 111. That section 9-329.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-329.02. (1) A pickle card operator shall not be eligible to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards without first obtaining a license.

(2) Any sole proprietorship, partnership, limited liability company, or corporation wishing to operate as a pickle card operator in this state shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name, address, and state identification number of the sole proprietorship, partnership, limited liability company, or corporation applying for the license, (b) a description of the premises on which the pickle cards will be sold or offered for sale, and (c) such other information which the department deems necessary. The information required by this subsection shall be kept current. A pickle card operator shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(3) A fee of fifty dollars shall be charged for each license issued pursuant to this section and shall be paid for by the applicant. A licensed organization shall not pay the required licensing fees of a pickle card operator as an inducement for the pickle card operator to sell individual pickle cards on its behalf. Such licenses shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. The proceeds from such license fees shall be deposited in the Charitable Gaming Operations Fund. An application for license renewal shall be submitted to the department on or before August 1 of each year.

(4) One license issued to any sole proprietorship, partnership, limited liability company, or corporation under this section as

a pickle card operator shall cover the sole proprietorship, partnership, limited liability company, or corporation and the employees of the licensed pickle card operator. Any license issued pursuant to this section shall be valid only for the sole proprietorship, partnership, limited liability company, or corporation in the name of which it was issued and shall allow the sale of individual pickle cards only on the premises described in the pickle card operator's application for a license. A pickle card operator's license may not be transferred under any circumstances including change of ownership. For purposes of this subsection, a change of ownership of stock in a corporation which does not result in any person becoming the owner of a substantial interest in such corporation who was not the owner of a substantial interest immediately preceding the transaction shall not be deemed a change of ownership.

(5) The department may prescribe a separate application form for renewal purposes.

(6) A licensed pickle card operator shall not sell individual pickle cards on behalf of a licensed organization until an authorization has been obtained from the department by the licensed organization. The licensed organization shall file an application with the department for such authorization on a form prescribed by the department. Each application for an authorization shall include (a) the name, address, and state identification number of the licensed pickle card operator and (b) such other information which the department deems necessary. The application shall include a statement signed by a person licensed as a member responsible for the proper utilization of gross proceeds signifying that such licensed organization approves the pickle card operator to sell individual pickle cards on behalf of such organization.

(7) A pickle card operator may sell individual pickle cards on behalf of more than one licensed organization. Each licensed organization for which the pickle card operator desires to sell individual pickle cards shall obtain the authorization described in subsection (6) of this section.

(8) A pickle card operator who sells individual pickle cards through a coin-operated or currency-operated dispensing device shall purchase, lease, or rent its own equipment. If such equipment is obtained from a licensed organization or distributor, it shall be purchased, leased, or rented at a rate not less than fair market value. A licensed organization or distributor shall not provide such equipment to a pickle card operator free of charge or at a rate less than fair market value as an inducement for the pickle card operator to sell its individual pickle cards.

(9) No pickle card operator shall generate revenue from the sale of individual pickle cards which exceeds the revenue generated from other retail sales on an annual basis. For purposes of this subsection, retail sales shall not include revenue generated from other charitable gaming activities authorized by Chapter 9. The department shall prescribe by rule and regulation a report to be submitted to the department by the pickle card operator which will allow the department to determine compliance with this subsection.

Sec. 112. That section 9-329.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-329.03. (1) Any sole proprietorship, partnership, limited liability company, or corporation, which holds a retailer's license for consumption on the premises or a bottle club license issued by the Nebraska Liquor Control Commission pursuant to the Nebraska Liquor Control Act or which holds a retailer's license for consumption off the premises, may apply for a pickle card operator's license to sell individual pickle cards as opportunities to participate in a lottery by the sale of pickle cards.

(2) A pickle card operator licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, ~~or~~ corporation, or other party licensed as a distributor or manufacturer under section 9-330 or 9-332.

(3) A sole proprietor, partner in a partnership, member in a limited liability company, or officer or director of a corporation licensed as a pickle card operator shall not be licensed as a sales agent.

Sec. 113. That section 9-329.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-329.04. A pickle card operator licensed under the Nebraska Pickle Card Lottery Act shall not be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, ~~or~~ corporation, or other party licensed as a distributor or manufacturer under section 9-330 or 9-332. A sole proprietor, partner in a partnership, member in a limited liability company, or officer or director of a corporation licensed as a pickle card operator shall not be a director, manager, trustee, or member of any governing committee, board, or body of the licensed organization on behalf of which the pickle card operator sells individual pickle cards.

Sec. 114. That section 9-614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-614. Lottery operator shall mean any individual, sole proprietorship, partnership, limited liability company, or corporation which operates a lottery on behalf of a county, city, or village.

A lottery operator shall be a resident of Nebraska or, if a partnership, limited liability company, or corporation, shall be organized under the laws of this state as a partnership, formed under the Limited Liability Company Act, or incorporated under the Nebraska Business Corporation Act.

Sec. 115. That section 9-616, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-616. Manufacturer-distributor shall mean any individual, sole proprietorship, partnership, limited liability company, or corporation which assembles, produces, makes, prints, or supplies lottery equipment or supplies for sale, use, or distribution in this state.

Sec. 116. That section 9-630, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-630. (1) No county, city, village, or lottery operator shall conduct a lottery without having first been issued a license by the department. An applicant for such license shall apply on a form prescribed by the department.

(2) Each application by any county, city, or village shall include:

(a) The name and address of the applicant;

(b) A certified copy of the election results at which the lottery was approved by a majority of the registered voters of the county, city, or village in the manner prescribed in section 9-625;

(c) Any approval by ordinance or resolution approved by a governing board of a county, city, or village sanctioning the conduct of a lottery;

(d) The names, addresses, and dates of birth of each person employed by the county, city, or village to conduct the lottery;

(e) The name and address of at least one person employed by the county, city, or village who shall represent the county, city, or village in all matters with the department regarding the conduct of the lottery;

(f) A written statement describing the type of lottery to be conducted by the county, city, or village;

(g) If the county, city, or village enters into a written agreement with a lottery operator:

(i) A copy of each proposal submitted to the county, city, or village by any individual, sole proprietorship, partnership, limited liability company, or corporation to operate the lottery; and

(ii) A copy of the proposed contract or written agreement between the county, city, or village and the chosen lottery operator; and

(h) Any other information which the department deems necessary.

(3) Each application by any lottery operator shall include:

(a) The name, address, and date of birth of every individual who is the lottery operator or the sole proprietor, a partner, a member, a corporate officer, or an employee of the lottery operator;

(b) The name and state identification number of the county, city, or village on whose behalf a lottery will be conducted;

(c) A statement signed by an authorized representative of the county, city, or village signifying that such county, city, or village approves the applicant to act as a lottery operator on behalf of such county, city, or village; and

(d) Any other information which the department deems necessary.

A separate license shall be obtained by a lottery operator for each county, city, or village on whose behalf a lottery will be conducted.

(4) The information required by this section shall be kept current. A county, city, village, or lottery operator shall notify the department thirty days in advance of any changes in the information

originally submitted in the application form.

(5) The department may prescribe a separate application form for renewal purposes.

Sec. 117. That section 9-632, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-632. (1) No individual, sole proprietorship, partnership, limited liability company, or corporation shall manufacture, sell, print, or distribute lottery equipment or supplies for use or play in this state without having first been issued a manufacturer-distributor license by the department.

(2) The department shall charge a biennial license fee of one thousand five hundred twenty-five dollars for the issuance or renewal of a manufacturer-distributor license. The proceeds from such license fees shall be deposited in the Charitable Gaming Operations Fund. All manufacturer-distributor licenses may be renewed biennially. The biennial expiration date shall be September 30 of every odd-numbered year. An application for license renewal shall be submitted to the department on or before August 15 of every odd-numbered year.

(3) An applicant for issuance or renewal of a manufacturer-distributor license shall apply for a license on a form prescribed by the department. The application form shall include:

(a) The name and address of the applicant and the name and address of each of its separate locations manufacturing or distributing lottery equipment or supplies;

(b) The name and home address of all owners or members of the manufacturer-distributor business if the business is not a corporation. If the business is a corporation, the name and home address of each of the officers and directors of the corporation and of each stockholder owning ten percent or more of any class of stock in the corporation shall be supplied;

(c) If the applicant is a foreign manufacturer-distributor, the full name, business address, and home address of the agent who is a resident of this state designated pursuant to section 9-633; and

(d) Such other information as the department deems necessary.

(4) The applicant shall notify the department within thirty days of any change in the information submitted on or with the application form. The applicant shall comply with all applicable laws of the United States and the State of Nebraska and all applicable rules and regulations of the department.

(5) Any person licensed as a manufacturer pursuant to section 9-233.01 or 9-332 or as a distributor pursuant to section 9-235 or 9-330 may act as a manufacturer-distributor pursuant to this section upon the filing of the proper application form and payment of a biennial license fee of one thousand five hundred twenty-five dollars.

Sec. 118. That section 9-642, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-642. (1) No individual, partner in a partnership, member

in a limited liability company, or officer or director of a corporation applying for a lottery operator license or licensed as a lottery operator shall be connected with or interested in, directly or indirectly, any person, partnership, limited liability company, firm, corporation, or other party licensed as a distributor, manufacturer, or manufacturer-distributor under section 9-233.01, 9-235, 9-330, 9-332, or 9-632.

(2) No member of the governing board or governing official of a county, city, or village shall be connected with or interested in, directly or indirectly, any lottery operator with whom the county, city, or village contracts to conduct its lottery or any manufacturer-distributor.

Sec. 119. That section 9-642.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

9-642.01. Prior to a county, city, village, or lottery operator conducting a lottery at a location other than the location of the lottery operator (1) the county, city, or village shall, by ordinance or resolution, establish qualification standards which shall be met by any individual, sole proprietorship, partnership, limited liability company, or corporation seeking to have its location qualify as an authorized sales outlet location for conducting a lottery and (2) the county, city, or village shall approve or disapprove each sales outlet location and individual, sole proprietorship, partnership, limited liability company, or corporation which desires to conduct the lottery at its sales outlet location solely on the basis of the qualification standards. A copy of the ordinance or resolution setting forth the qualification standards shall be filed with the department within thirty days of its adoption. A county, city, or village shall notify the department of all approved lottery locations within thirty days of approval.

Sec. 120. That section 9-834, Reissue Revised Statutes of Nebraska, 1943, as amended by section 53, Legislative Bill 138, Ninety-third Legislature, First Session, 1993, be amended to read as follows:

9-834. (1) To enable the division to review and evaluate the competence, integrity, background, character, and nature of the ownership and control of lottery vendors for major procurements, such vendors shall disclose the following information:

(a) The lottery vendor's name, address, and type of business entity and, as applicable, the name and address of the following:

(i) If the lottery vendor is a corporation, the officers, directors, and each stockholder in the corporation, except that in the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own or have a beneficial interest in five percent or more of such securities need to be disclosed;

(ii) If the lottery vendor is a trust, the trustee and all persons entitled to receive income or benefit from the trust;

(iii) If the lottery vendor is an association, the members, officers, and directors;

(iv) If the lottery vendor is a subsidiary, the officers, directors, and each stockholder of the parent corporation, except that in

the case of stockholders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those known to the corporation to own or have a beneficial interest in five percent or more of such securities need to be disclosed;

(v) If the lottery vendor is a limited liability company, the members;

(vi) If the lottery vendor is a partnership or joint venture, the general partners, limited partners, or joint venturers;

~~(vi)~~ (vii) If the parent company, general partner, limited partner, or joint venturer of the lottery vendor is itself a corporation, trust, association, subsidiary, partnership, limited liability company, or joint venture, all the information required in subdivision (a) of this subsection shall be disclosed for such other entity as if it were itself a lottery vendor so that full disclosure of ultimate ownership is achieved;

~~(vii)~~ (viii) If any parent, child, brother, sister, or spouse of the lottery vendor is involved in the vendor's business in any capacity, all of the information required in subdivision (a) of this subsection shall be disclosed for such family member as if he or she was a lottery vendor; and

~~(viii)~~ (ix) If the lottery vendor subcontracts any substantial portion of the work to be performed to a subcontractor, all of the information required in subdivision (a) of this subsection shall be disclosed for each subcontractor as if it were itself a lottery vendor;

(b) The place of the lottery vendor's incorporation, if any;

(c) The states in which the lottery vendor is qualified to do business and the nature of any business done in each state;

(d) The name, address, and telephone number of a resident agent to contact regarding matters of the lottery vendor and for service of process;

(e) The name, address, and telephone number of each attorney and law firm representing the lottery vendor in this state;

(f) The name, address, and telephone number of each of the lottery vendor's accountants;

(g) The name, address, and telephone number of each attorney, law firm, accountant, accounting firm, public relations firm, consultant, sales agent, or other person engaged by the lottery vendor or involved in aiding the vendor's efforts to obtain the contract and the procurement involved at the time of disclosure or during the prior year;

(h) The states and jurisdictions in which the lottery vendor does business and the nature of the business for each such state or jurisdiction;

(i) The states and jurisdictions in which the lottery vendor has contracts to supply goods or services related to lottery games and the nature of the goods or services involved for each such state or jurisdiction;

(j) The states and jurisdictions in which the lottery vendor has applied for, sought renewal of, received, been denied, or had revoked a gaming contract or license of any kind, and the status of such application, contract, or license in each state or jurisdiction. If any gaming contract or license has been revoked or has not been renewed or if

any gaming contract or license application either has been denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying the failure to receive or retain such a contract or license shall be disclosed. For purposes of this subdivision, gaming contract or license shall mean a contract or license for the conduct of or any activity related to the operation of any lottery game or other gambling scheme;

(k) The details of any conviction or judgment of any state or federal court against the lottery vendor relating to any felony and any other criminal offense other than a traffic violation;

(l) The details of any bankruptcy, insolvency, reorganization, or pending litigation involving the lottery vendor;

(m) The identity of any entity with which the lottery vendor has a joint venture or other contractual agreement to supply any state or jurisdiction with goods or services related to lottery games, including, with regard to such entity, all the information requested under subdivisions (a) through (l) of this subsection;

(n) The lottery vendor's financial statements for the three years prior to disclosure;

(o) At the director's request, the lottery vendor's federal and state income tax returns for the three years prior to disclosure. Such information shall be considered confidential in any review in conjunction with any pending major procurement and shall not be disclosed except pursuant to appropriate judicial order;

(p) The identity and nature of any interest known to the lottery vendor of any past or present director or other employee of the division who, directly or indirectly, is an officer, director, member, agent, consultant, independent contractor, stockholder, debt holder, principal, or employee of or who has any direct or indirect financial interest in any lottery vendor. For purposes of this subdivision, financial interest shall mean ownership of any interest or involvement in any relationship from which or as a result of which a person within the five years prior to disclosure has received, is receiving at the time of disclosure, or in the future will be entitled to receive over a five-year period more than one thousand dollars or its equivalent; and

(q) Such additional disclosures and information as the Tax Commissioner may determine to be appropriate for the major procurement involved.

(2) The disclosures required by subsection (1) of this section may be required only once of a lottery vendor. The vendor shall file an addendum to the original filing by August 1 of each year showing any changes from the original filing or the latest addendum.

(3) No contract shall be approved by the Tax Commissioner or signed or entered into by the director unless the lottery vendor has complied with this section. Any contract entered into with a vendor who has not complied with this section shall be void.

(4) If a contract is to be entered into as a result of competitive procurement procedures, the required disclosures, if not

already on file with the director, shall be made prior to or concurrent with the submission of a bid, proposal, or offer. If the contract is entered into without a competitive procurement procedure, such disclosures shall be required prior to execution of the contract.

(5) No major procurement with any lottery vendor shall be entered into if any person with a substantial interest in the lottery vendor has been convicted of a felony or misdemeanor involving gambling, moral turpitude, dishonesty, or theft. No major procurement with any lottery vendor shall be entered into if any person with a substantial interest in the lottery vendor has been convicted of any other felony within ten years preceding the date of submission of information required under this section. For purposes of this subsection, person with a substantial interest shall mean any sole proprietor, partner in a partnership, member of a limited liability company, officer of a corporation, shareholder owning in the aggregate ten percent or more of the stock in a corporation, or governing officer of an organization or other entity.

(6) This section shall be construed broadly and liberally to achieve the end of full disclosure of all information necessary to allow for a full and complete evaluation by the director of the competence, integrity, background, character, and nature of the ownership and control of lottery vendors for major procurements.

Sec. 121. That section 12-606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

12-606. No person, firm, partnership, limited liability company, corporation, or association shall construct any vault, crypt, columbarium, or mausoleum for public use, wholly or partially above the surface of the ground, to be used to contain the body of any dead person; unless the same ~~shall be~~ is located within the confines of an established cemetery, which cemetery ~~shall have~~ has been in existence and operation for a period of at least five years immediately preceding the time of erection thereof.

Sec. 122. That section 12-607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

12-607. It shall be unlawful for any firm, person, partnership, limited liability company, or corporation to construct, erect, remodel, or extend any structure to be used as a public mausoleum, public vault, or public burial structure; until such person, firm, partnership, limited liability company, or corporation, ~~shall~~ has:

(1) ~~Submit~~ Submitted to the Department of Health complete plans and specifications, prepared by an architect or engineer registered to practice in the State of Nebraska, for such public mausoleum or other structure for use, by members of the public, for interment space;

(2) ~~Obtain~~ Obtained from the department a certificate that the detailed plans and specifications are approved and ~~obtain~~ obtained such certificate before construction is commenced; and

(3) ~~The certificate shall be filed by the person, firm, partnership, or corporation, constructing the same;~~ Filed the certificate with the office of the clerk of the county wherein the structure is to be

erected, ~~and there remain~~ as a public record.

Sec. 123. That section 12-609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

12-609. Any person, firm, partnership, limited liability company, or corporation; engaged in the construction or erection of a mausoleum or structure; which is intended upon its completion to be available to members of the public for interment of human remains; or is intended to contain dead bodies shall, after obtaining approval of the plans and specifications required by ~~the provisions of~~ section 12-607, during the period of construction, permit the Department of Health; or any person designated by it; to come upon the premises where such construction is taking place; and examine the various steps and stages of construction.

Sec. 124. That section 12-613, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

12-613. It shall be unlawful for any person, firm, partnership, limited liability company, corporation, or association to sell, transfer, or assign any niche or crypt in a columbarium or mausoleum; without establishing a trust fund for the perpetual care and maintenance of such columbarium or mausoleum; as provided by sections 12-603 and 12-606 to 12-618.

Sec. 125. That section 12-614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

12-614. Any person, partnership, limited liability company, firm, corporation, or association; which sells, assigns, or transfers any crypt or niche in a mausoleum or columbarium; shall set aside a sum of not less than fifty dollars for each crypt and not less than twenty-five dollars for each niche; or ten percent of the sale price of each crypt or niche whichever sum is the greater. In the event that sales of crypts, rooms, or niches shall be made upon a partial payment plan; there shall be set apart and applied to ~~said the~~ maintenance fund from each such payment such proportion thereof as the number of partial payments bears to the total amount of the sum required to be set aside for such fund.

Sec. 126. That section 12-1102, Revised Statutes Supplement, 1992, be amended to read as follows:

12-1102. For purposes of the Burial Pre-Need Sale Act, unless the context otherwise requires:

(1) Agent shall mean any person who acts for or on behalf of a pre-need seller in making pre-need sales;

(2) Burial or funeral merchandise or services shall mean all items of real or personal property or a combination of both or services, sold or offered for sale to the general public by any pre-need seller, which may be used in any manner in connection with a funeral or the interment, entombment, inurnment, or other alternate disposition of human remains. Such term shall not include a lot or grave space or a crypt or niche located in a mausoleum, columbarium, or lawn crypt upon which construction has been substantially completed;

(3) Columbarium shall mean an aboveground structure or

building which is used or intended to be used for the interment of human remains in a niche. A columbarium may be combined with a mausoleum;

(4) Crypt or niche shall mean a chamber in a lawn crypt, columbarium, or mausoleum of sufficient size to inter or entomb cremated or noncremated human remains;

(5) Delivery shall mean the act of performing the service required by or the act of placing the item purchased in the physical possession of the pre-need purchaser, including, but not limited to, the installing or depositing of the item sold on or in real property owned by or designated by the person entitled to receive such item, except that (a) the pre-need burial of a vault shall constitute delivery only if the burial is with the consent of the pre-need purchaser and the pre-need seller has made other pre-need vault burials prior to January 1, 1986, and (b) delivery of a crypt or niche in a mausoleum, lawn crypt, or columbarium or a marker or monument may be accomplished by delivery of a document of title;

(6) Department shall mean the Department of Insurance;

(7) Director shall mean the Director of Insurance;

(8) Document of title shall mean a deed, bill of sale, warehouse receipt, or any other document which meets the following requirements:

(a) The effect of the document is to immediately vest the ownership of the item described in the person purchasing the item;

(b) The document states the exact location of such item;

and

(c) The document gives assurances that the item described exists in substantially completed form and is subject to delivery upon request;

(9) Human remains shall mean the body of a deceased person;

(10) Lawn crypt shall mean an inground burial receptacle of single or multiple depth, installed in multiples of ten or more in a large mass excavation, usually constructed of concrete and installed on gravel or other drainage underlayment and which acts as an outer container for the interment of human remains;

(11) Letter of credit shall mean an irrevocable undertaking issued by any financial institution which qualifies as a trustee under the Burial Pre-Need Sale Act, given to a pre-need seller and naming the director as the beneficiary, in which the issuer agrees to honor drafts or other demands for payment by the beneficiary up to a specified amount;

(12) Lot or grave space shall mean a space in a cemetery intended to be used for the inground interment of human remains;

(13) Marker, monument, or lettering shall mean an object or method used to memorialize, locate, and identify human remains;

(14) Master trust agreement shall mean an agreement between a pre-need seller and a trustee, a copy of which has been filed with the department, under which proceeds from pre-need sales may be deposited by the pre-need seller;

(15) Mausoleum shall mean an aboveground structure or

building which is used or intended to be used for the entombment of human remains in a crypt. A mausoleum may be combined with a columbarium;

(16) Pre-need purchaser shall mean a member of the general public purchasing burial or funeral merchandise or services or a marker, monument, or lettering from a pre-need seller for personal use;

(17) Pre-need sale shall mean any sale by any pre-need seller to a pre-need purchaser of:

(a) Any items of burial or funeral merchandise or services which are not purchased for the immediate use in a funeral or burial of human remains;

(b) Any unspecified items of burial or funeral merchandise or services which items will be specified either at death or at a later date; or

(c) A marker, monument, or lettering which will not be delivered within six months of the date of the sale;

(18) Pre-need seller shall mean any person, partnership, limited liability company, corporation, or association on whose behalf pre-need sales are made to the general public;

(19) Substantially completed shall mean that time when the mausoleum, columbarium, or lawn crypt being constructed is then ready for the interment, entombment, or inurnment of human remains;

(20) Surety bond shall mean an undertaking given by an incorporated surety company naming the director as the beneficiary and conditioned upon the faithful performance of a contract for the construction of a mausoleum, columbarium, or lawn crypt by a pre-need seller;

(21) Trust account shall mean either a separate trust account established pursuant to the Burial Pre-Need Sale Act for a specific pre-need purchaser by a pre-need seller or multiple accounts held under a master trust agreement when it is required by the act that all or some portion of the proceeds of such pre-need sale be placed in trust by the pre-need seller;

(22) Trustee shall mean a bank, trust company, building and loan association, or industrial loan and investment company within the state whose deposits are insured by the Federal Deposit Insurance Corporation;

(23) Trust principal shall mean all deposits, including amounts retained as required by section 12-1114, made to a trust account by a pre-need seller less all withdrawals occasioned by delivery or cancellation; and

(24) Vault shall mean an item of burial or funeral merchandise or services which is an inground burial receptacle installed individually, as opposed to lawn crypts, which is constructed of concrete, steel, or any other material, and which acts as an outer container for the interment of human remains.

Sec. 127. That section 12-1108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

12-1108. (1) No pre-need seller shall make or offer to make a pre-need sale without first obtaining a license from the director. An application for such a license or a renewal of an existing license shall be made in writing, signed by the proposed pre-need seller, duly verified on forms prepared and furnished by the director, and accompanied by an application fee of fifty dollars. Each application shall contain the following information:

(a) The applicant's full name and his, her, or its home and business address, and if the applicant is a partnership, limited liability company, corporation, or association, the application shall list the names and addresses of all of the officers, directors, members, or trustees thereof;

(b) The names and addresses of all agents, including employees and independent contractors, authorized to make pre-need sales in the name of the applicant;

(c) Whether such agents are presently licensed as agents pursuant to section 12-1115 and if not the date upon which application will be made;

(d) Whether the pre-need seller's license has previously been suspended, revoked, or voluntarily surrendered and the reason therefor; and

(e) Whether the applicant or any officers, directors, members, or association trustees have been convicted of fraud or a crime involving misappropriation or misuse of funds within the past ten years.

(2) Upon receipt of the application, the director shall issue a license to the pre-need seller unless the director determines that the applicant (a) is unable to demonstrate its financial ability to meet the requirements of the Burial Pre-Need Sale Act, (b) has made false statements or misrepresentations in the application, (c) is not duly authorized to transact business in the state, (d) has been convicted of fraud or a crime involving misappropriation or misuse of funds within the last ten years, or (e) has failed to comply with any of the terms or conditions of the Burial Pre-Need Sale Act and such is deemed by the director to substantially impede the applicant's ability to abide by such act. If the director determines that an unrestricted license will not be issued or that no license will be issued on the basis of the application, the director may:

(i) Request additional information from the applicant;

(ii) Issue a temporary license with restrictions and reporting requirements as the director deems necessary so as to monitor the actions of the applicant for a period not to exceed six months; or

(iii) Refuse to issue the license.

The director shall notify the applicant of the action taken, and the notification and any protest shall be made in the same manner as provided in subsection (2) of section 12-1116.

(3) A license shall expire five years from the date of the issuance and may be renewed for additional five-year periods upon filing with the director a new application for such license.

(4) The licensee shall maintain accurate accounts, books, and records of all transactions required including copies of all contracts

involving pre-need sales and shall make a report as prescribed in section 12-1110.

(5)(a) The licensee shall make all books and records pertaining to trust funds available to the director for examination. The director, or a qualified person designated by the director, may during ordinary business hours examine the books, records, and accounts of the licensee with respect to the funds received by such licensee and may require the attendance at an examination under oath of all persons whose testimony he or she may deem necessary.

(b) The reasonable expenses for the examination of the books, records, and accounts of the licensee shall be fixed and determined by the director. The licensee shall be responsible for the payment of the determined expenses to the director within a reasonable time after the receipt of a statement for such expenses. The expenses shall be limited to a reasonable allocation for the salary of each examiner plus actual expenses.

Sec. 128. That section 13-203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

13-203. For purposes of the Community Development Assistance Act, unless the context otherwise requires:

(1) Business firm shall mean any business entity, including a corporation, a fiduciary, a sole proprietorship, a partnership, a limited liability company, a corporation having an election in effect under subchapter S of the Internal Revenue Code subject to the state income tax imposed by section 77-2715 or 77-2734.02, an insurance company paying premium or related retaliatory taxes in this state pursuant to section 44-150 or 77-908, or a financial institution paying the tax imposed pursuant to sections 77-3801 to 77-3807;

(2) Community services shall mean any type of the following in a community development area: (a) Employment training; (b) human services; (c) medical services; (d) physical facility and neighborhood development services; (e) recreational services or activities; (f) educational services; (g) crime prevention activities, including, but not limited to, (i) the instruction of any individual in the community development area that enables him or her to acquire vocational skills, (ii) counseling and advice, (iii) emergency services, (iv) community, youth, day care, and senior citizen centers, (v) inhome services, (vi) home improvement services and programs, and (vii) any legal enterprise which aids in the prevention or reduction of crime; or (h) purchasing shares in a business development corporation formed to carry out section 58-440;

(3) Department shall mean the Department of Economic Development;

(4) Director shall mean the Director of Economic Development;

(5) Community development area shall mean any village, city, county, or part thereof which has been designated by the department as an area of chronic economic distress;

(6) Community assistance shall mean furnishing financial

assistance, labor, material, or technical advice to aid in the physical improvement of any part or all of a community development area;

(7) Community betterment organization shall mean (a) any organization performing community services or offering community assistance in a community development area and to which contributions are tax deductible under the provisions of the Internal Revenue Service of the United States Department of the Treasury, (b) a business development corporation formed to carry out section 58-440, and (c) a county, city, or village performing community services or offering community assistance in a community development area; and

(8) Area of chronic economic distress shall mean an area of the state which meets a majority of the following categories:

(a) An unemployment rate which exceeds the statewide average unemployment rate;

(b) Vacant and substandard housing stock which exceeds the statewide average percentage for vacant and substandard housing stock;

(c) Depressed housing valuations which exceed the statewide average rate for depressed housing valuations;

(d) A crime rate which exceeds the statewide average crime rate; or

(e) A per capita income below the statewide average per capita income.

Sec. 129. That section 14-2004, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

14-2004. (1) A landmark heritage preservation commission created pursuant to sections 14-2001 to 14-2004 shall have nine members. If available, one of the members shall be an architect, one shall be a curator or director of an art or other museum, one shall be a professional artist or historian, three shall be interested and qualified persons chosen, as far as possible, from any existing historical society, preservation group, architectural, landscape architectural, interior design, or planning association, or cultural organization, two shall be laypersons, and one shall be an owner or operator of a business or property within a landmark heritage preservation district, which business or property may be owned or operated by a corporation of which such member is an officer, ~~or~~ by a partnership in which such member is a partner, or by a limited liability company in which such member is a member.

(2) Members shall be appointed by the mayor and approved by the city council and shall serve for terms of three years. Members shall serve until their successors are appointed and qualified. Members may be appointed to successive terms.

(3) The commission shall select one of its members as chairperson. The director of the planning department of the city shall act as the executive director of such commission, and staff assistance for the commission shall be provided by the planning department of such city.

Sec. 130. That section 14-2119, Revised Statutes Supplement, 1992, be amended to read as follows:

14-2119. In case any portion of the metropolitan utilities district is supplied with natural gas or water for domestic, mechanical, public, or fire purposes by any individual, ~~partnership~~ partnership, limited liability company, or corporation, then the board shall have the power and authority to fix rates and regulate the conditions of service and the conduct of the utility affording such supply.

Sec. 131. That section 15-203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-203. A primary city of the primary class shall have power to raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business within the limits of the city; and regulate the same by ordinance; except as otherwise provided in this section and in section 15-212. All such taxes shall be uniform in respect to the class upon which they are imposed. All ; ~~PROVIDED, HOWEVER, all~~ scientific and literary lectures and entertainments shall be exempt from such taxation as well as concerts and all other musical entertainments given exclusively by the citizens of the city.

Sec. 132. That section 15-808, Revised Statutes Supplement, 1992, be amended to read as follows:

15-808. The city council sitting as a board of equalization shall hold a session of not less than three ~~nor or~~ more than thirty days annually commencing on the first Tuesday after the third Monday in June and shall have power:

(1) To assess any taxable property, real and personal, not assessed;

(2) To review assessments made and correct the same as appears to be just. The board shall not increase the assessment of any person, partnership, limited liability company, or corporation until such person, partnership, limited liability company, or corporation has been notified by the board to appear and show cause, if any, why the assessment should not be increased. If personal service of such notice cannot be made in the city, notice may be given by publication and it shall be sufficient if such notice is published in one issue of a daily paper of general circulation within the city; and

(3) To equalize the assessments of all taxable property in the city and to correct any errors in the listing or value thereof. The city council sitting as a board of equalization shall be authorized and empowered to meet at any time for the purpose of equalizing assessment of any omitted or undervalued property and to add to the assessment rolls any taxable property not included.

Sec. 133. That section 15-816, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-816. All municipal personal taxes shall be collected from the personal property of the person, partnership, limited liability company, or corporation owning the same. All delinquent municipal taxes levied on any real estate within such city shall be collected by sale of such real estate in the same manner as in case of sale for delinquent

county taxes.

Sec. 134. That section 15-819, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

15-819. Taxes assessed upon personal property in the city shall be a lien upon the personal property of the person, partnership, limited liability company, or corporation assessed from and after the time the tax books are received by the treasurer. Such lien shall be prior and superior to all other liens thereon except liens for taxes.

Sec. 135. That section 16-205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

16-205. A city of the first class may raise revenue by levying and collecting a license or occupation tax on any person, partnership, limited liability company, corporation, or business within the limits of the city and to regulate same by ordinance. All such taxes shall be uniform in respect to the class upon which they are imposed. All ; ~~PROVIDED, HOWEVER, all~~ scientific and literary lectures and entertainments shall be exempt from such taxation; as well as concerts and all other musical entertainments given exclusively by the citizens of the city.

Sec. 136. That section 17-926, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

17-926. Any city of the second class or village through its mayor and city council or board of trustees may, by eminent domain, ~~as herein provided~~, condemn, purchase, hold, and pay for, ~~in the manner herein provided~~, land not exceeding one hundred ~~and~~ sixty acres outside the corporate limits of any city of the second class or village; for the purpose of the burial of the dead. The mayor and council or ~~chairman~~ chairperson and board of trustees are also empowered and authorized to receive by gift or devise real estate for cemetery purposes. In the event any city of the second class or village through its mayor and council or ~~chairman~~ chairperson and board of trustees ~~should desire~~ desires to purchase any cemetery belonging to any corporation, partnership, limited liability company, association, or individual, which cemetery has already been properly surveyed and platted, and is used for cemetery purposes, then the mayor and city council or ~~chairman~~ chairperson and board of trustees are hereby authorized and empowered to purchase the cemetery. In the event the owner or owners of such cemetery desired to be purchased by any city of the second class or village ~~as herein provided~~ will not or cannot sell and convey same to the city or village; or in the event the owner or owners of such cemetery cannot agree upon the price to be paid for the cemetery, the mayor and council of any city of the second class or the board of trustees of any village shall by resolution declare the necessity for the acquisition thereof by exercise of the power of eminent domain. The adoption of the resolution shall be deemed conclusive evidence of such necessity. The procedure to condemn property shall be exercised in the manner set forth in sections 76-704 to 76-724.

Sec. 137. That section 18-306, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

18-306. It shall be unlawful for any person, partnership, limited liability company, or corporation; engaged in furnishing in any city or village in this state artificial light, such as electric light, gas light, or light from oil, to furnish light to any officer, either elective or appointive, in any city or village ~~wherein~~ in which such person, partnership, limited liability company, or corporation is engaged in furnishing such lights, free or for a less price than is charged other customers in such city or village for similar services. Any violation of this section ~~is~~ shall be a Class III misdemeanor. Each day any service is furnished or accepted in violation of this section shall be considered as a separate offense and punished accordingly.

Sec. 138. That section 18-307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-307. If any officer, either elective or appointive in any city or village in this state, ~~shall accept~~ accepts free of charge; or for a price less than is charged other customers for similar services in such city or village, any light or lights from any lighting company; or services from any such lighting company; or from any person, ~~or~~ partnership, or limited liability company so engaged, such officer shall be guilty of a Class III misdemeanor and shall also forfeit the office held by him or her at the date of such offense.

Sec. 139. That section 18-308, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-308. Any water company engaged in furnishing water in any city or village in this state; and any person, corporation, ~~or~~ partnership, or limited liability company engaged in such services; who ~~shall furnish~~ furnishes to any officer, either elective or appointive, in such city or village, water free of charge; or for a price less than is at the time charged for similar service to other customers in such city or village; shall be guilty of a Class III misdemeanor. If any officer in any such city or village ~~shall accept~~ accepts free of charge; or for a price less than is charged to other customers in such city or village; any of the services mentioned in this section, such officer shall be guilty of a Class III misdemeanor and shall also forfeit the office held by him or her at the date of such violation. Each day such service or services ~~shall be~~ are furnished or accepted in violation of this section shall constitute a separate and distinct offense; and shall be punished accordingly.

Sec. 140. That section 18-1916, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1916. No sanitary plumbing shall be installed or repaired in any building except a single-family dwelling or a farm or ranch structure by any person, partnership, limited liability company, corporation, or other legal entity without a permit issued by the city or village nearest the construction site.

Sec. 141. That section 18-1917, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1917. Any person, partnership, limited liability

company, corporation, or other legal entity who installs or repairs any sanitary plumbing within the state shall be a duly qualified master plumber licensed by the city or village nearest the construction site. The employees of the master plumbers who perform the actual installation or repair of sanitary plumbing shall also be licensed as journeymen plumbers by the city or village nearest the construction site.

Sec. 142. That section 18-1918, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-1918. The city or village which has jurisdiction of the construction or repair of the sanitary plumbing shall be entitled to permit fees, according to its ordinance. Any person, partnership, limited liability company, corporation, or other legal entity making installation or repair of sanitary plumbing in any building except a single-family dwelling without the required permit from the city or village shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than fifty dollars nor more than five hundred dollars.

Sec. 143. That section 18-2103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-2103. ~~As used in sections 18-2101 to 18-2144~~ For purposes of the Community Development Law, unless the context otherwise requires:

(1) An authority shall mean any community redevelopment authority created pursuant to section 18-2102.01; and a city or village which has created a community development agency pursuant to the provisions of section 18-2101.01; and shall not mean a limited community redevelopment authority;

(2) Limited community redevelopment authority shall mean a community redevelopment authority created pursuant to section 18-2102.01; having only one single specific limited pilot project authorized;

(3) City shall mean any city or incorporated village in the state;

(4) Public body shall mean the state; or any municipality, county, township, board, commission, authority, district, or ~~any~~ other political subdivision or public body of the state;

(5) Governing body or local governing body shall mean the city council, board of trustees, or other legislative body charged with governing the municipality;

(6) Mayor shall mean the mayor of the city or chairperson of the board of trustees of the village;

(7) Clerk shall mean the clerk of the city or village;

(8) Federal government shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America;

(9) Area of operation shall mean and include the area within the corporate limits of the city and such land outside the city as may come within the purview of section 18-2123;

(10) Substandard areas shall mean an area in which there

is a predominance of buildings or improvements, whether nonresidential or residential in character, which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, and is detrimental to the public health, safety, morals, or welfare;

(11) Blighted area shall mean an area, which (a) by reason of the presence of a substantial number of deteriorated or deteriorating structures, existence of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of the community, retards the provision of housing accommodations or constitutes an economic or social liability and is detrimental to the public health, safety, morals, or welfare in its present condition and use and (b) in which there is at least one of the following conditions: (i) Unemployment in the designated area is at least one hundred twenty percent of the state or national average; (ii) the average age of the residential or commercial units in the area is at least forty years; (iii) more than half of the plotted and subdivided property in an area is unimproved land that has been within the city for forty years and has remained unimproved during that time; (iv) the per capita income of the area is lower than the average per capita income of the city or village in which the area is designated; or (v) that the area has had either stable or decreasing population based on the last two decennial censuses. In no event shall a city of the metropolitan, primary, or first class designate more than thirty-five percent of the city as blighted, a city of the second class shall not designate an area larger than fifty percent of the city as blighted, and a village shall not designate an area larger than one hundred percent of the village as blighted;

(12) Redevelopment project shall mean any work or undertaking in one or more community redevelopment areas: (a) To acquire substandard or blighted areas or portions thereof, including lands, structures, or improvements the acquisition of which is necessary or incidental to the proper clearance, development, or redevelopment of such substandard or blighted areas; (b) to clear any such areas by demolition or removal of existing buildings, structures, streets, utilities, or other improvements thereon and to install, construct, or reconstruct streets, utilities, parks, playgrounds, public spaces, public parking facilities, sidewalks or moving sidewalks, convention and civic centers, bus stop shelters, lighting, benches or other similar furniture, trash receptacles, shelters, skywalks and pedestrian and vehicular overpasses and

underpasses, and any other necessary public improvements essential to the preparation of sites for uses in accordance with a redevelopment plan; (c) to sell, lease, or otherwise make available land in such areas for residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or for public use or to retain such land for public use, in accordance with a redevelopment plan; and may also include the preparation of the redevelopment plan, the planning, survey, and other work incident to a redevelopment project and the preparation of all plans and arrangements for carrying out a redevelopment project; (d) to dispose of all real and personal property or any interest in such property, or assets, cash, or other funds held or used in connection with residential, recreational, commercial, industrial, or other uses, including parking or other facilities functionally related or subordinate to such uses, or any public use specified in a redevelopment plan or project, except that such disposition shall be at its fair value for uses in accordance with the redevelopment plan; (e) to acquire real property in a community redevelopment area which, under the redevelopment plan, is to be repaired or rehabilitated for dwelling use or related facilities, repair or rehabilitate the structures, and resell the property; and (f) to carry out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the redevelopment plan;

(13) Redevelopment plan shall mean a plan, as it exists from time to time for one or more community redevelopment areas, or for a redevelopment project, which plan (a) shall conform to the general plan for the municipality as a whole; and (b) shall be sufficiently complete to indicate such land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the community redevelopment area, zoning and planning changes, if any, land uses, maximum densities, and building requirements;

(14) Redeveloper shall mean any person, partnership, or public or private corporation or agency which shall enter or propose to enter into a redevelopment contract;

(15) Redevelopment contract shall mean a contract entered into between an authority and a redeveloper for the redevelopment of an area in conformity with a redevelopment plan;

(16) Real property shall mean all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise, and the indebtedness secured by such liens;

(17) Bonds shall mean any bonds, including refunding bonds, notes, interim certificates, debentures, or other obligations issued pursuant to the ~~provisions of sections 18-2101 to 18-2144~~ act;

(18) Oblige shall mean any bondholder, agent, or trustee for any bondholder, or lessor demising to any authority, established pursuant to ~~the provisions of~~ section 18-2102.01, property used in

connection with a redevelopment project, or any assignee or assignees of such lessor's interest or any part thereof, and the federal government when it is a party to any contract with such authority;

(19) Person shall mean any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or body politic; and shall include any trustee, receiver, assignee, or other similar representative thereof;

(20) Community redevelopment area shall mean a substandard or a blighted area or a combination thereof which the community redevelopment authority designates as appropriate for a renewal project; and

(21) Redevelopment project valuation shall mean the valuation for assessment of the taxable real property in a redevelopment project last certified for the year prior to the effective date of the provision authorized in section 18-2147.

Sec. 144. That section 18-2412, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-2412. Person shall mean a natural person, ~~or a~~ public authority, ~~or a~~ private corporation, association, firm, partnership, limited liability company, or business trust of any nature whatsoever; organized and existing under the laws of this state or of the United States or any other state thereof.

Sec. 145. That section 18-2709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

18-2709. Qualifying business shall mean any corporation, partnership, limited liability company, or sole proprietorship which derives its principal source of income from any of the following: The manufacture of articles of commerce; the conduct of research and development; the processing, storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce; the sale of services in interstate commerce; headquarters facilities relating to eligible activities as listed in this section; telecommunications activities; or tourism-related activities. In cities with a population of two thousand five hundred inhabitants or less, a business shall be a qualifying business even though it derives its principal source of income from activities other than those set out in this section.

If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in an economic development program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years of its participation in the economic development program at a level not less than its average employment in such city over the twelve-month period preceding participation.

Sec. 146. That section 20-145, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

20-145. ~~As used in sections 20-144 to 20-147~~ For purposes of the Free Flow of Information Act, unless the context otherwise requires:

(1) Federal or state proceeding shall include any proceeding or investigation before or by any federal or state judicial, legislative, executive, or administrative body;

(2) Medium of communication shall include, but is not be limited to, any newspaper, magazine, other periodical, book, pamphlet, news service, wire service, news or feature syndicate, broadcast station or network, or cable television system;

(3) Information shall include any written, audio, oral, or pictorial news or other material;

(4) Published or broadcast information shall mean any information disseminated to the public by the person from whom disclosure is sought;

(5) Unpublished or nonbroadcast information shall include information not disseminated to the public by the person from whom disclosure is sought, whether or not related information has been disseminated and shall include, but not be limited to, all notes, outtakes, photographs, film, tapes, or other data of whatever sort not itself disseminated to the public through a medium of communication, whether or not published or broadcast information based upon or related to such material has been disseminated;

(6) Processing shall include compiling, storing, transferring, handling, and editing of information; and

(7) Person shall mean any individual, ~~and any~~ partnership, limited liability company, corporation, association, or other legal entity existing under or authorized by the law of the United States, any state or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

Sec. 147. That section 20-314, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

20-314. Person shall include one or more individuals, corporations, partnerships, limited liability companies, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

Sec. 148. That section 20-403, Revised Statutes Supplement, 1992, be amended to read as follows:

20-403. For purposes of the Rights of the Terminally Ill Act, unless the context otherwise requires:

(1) Adult shall mean any person who is nineteen years of age or older or who is or has been married;

(2) Attending physician shall mean the physician who has primary responsibility for the treatment and care of the patient;

(3) Declaration shall mean a writing executed in accordance with the requirements of subsection (1) of section 20-404;

(4) Health care provider shall mean a person who is licensed, certified, or otherwise authorized by the law of this state to administer health care in the ordinary course of business or practice of a profession;

(5) Life-sustaining treatment shall mean any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the process of dying or maintain the qualified patient in a persistent vegetative state;

(6) Persistent vegetative state shall mean a medical condition that, to a reasonable degree of medical certainty as determined in accordance with currently accepted medical standards, is characterized by a total and irreversible loss of consciousness and capacity for cognitive interaction with the environment and no reasonable hope of improvement;

(7) Person shall mean an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or ~~any~~ other legal or commercial entity;

(8) Physician shall mean an individual licensed to practice medicine in this state;

(9) Qualified patient shall mean an adult who has executed a declaration and who has been determined by the attending physician to be in a terminal condition or a persistent vegetative state;

(10) State shall mean a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States; and

(11) Terminal condition shall mean an incurable and irreversible condition that, without the administration of life-sustaining treatment, will, in the opinion of the attending physician, result in death within a relatively short time.

Sec. 149. That section 21-1311, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-1311. Hereafter, unless expressly authorized by law, no individual, ~~or~~ partnership, ~~nor any~~ limited liability company, corporation, or association formed in this state otherwise than as provided in sections 21-1308 to 21-1331; shall adopt or use the words cooperative credit association; or any abbreviation or derivative thereof; as a part of the name or designation under which such individual, partnership, limited liability company, corporation, or association ~~shall do~~ does business in this state.

Sec. 150. That section 21-1401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-1401. ~~In sections 21-1401 to 21-1414~~ (1) For purposes of the Nonstock Cooperative Marketing Act, unless the context otherwise requires: (a) The ~~the~~ term association means any corporation formed hereunder; (b) the term member means a person who owns a certificate of membership in an association formed without capital stock; (c) the term person means an individual, a partnership, a limited liability company, a corporation, an association, or two or more persons having a joint or common interest; (d) the term agricultural products or products means field crops, horticultural, viticultural, forestry, nut, dairy, livestock, poultry, bee and farm products, and the byproducts derived from any of them; and (e) the words used to import the singular may be applied to the plural as

the context may demand.

(2) Associations organized hereunder shall be deemed nonprofit, inasmuch as they are not organized to make profits for themselves as such or for their members as such but only for their members as producers.

(3) Sections 21-1401 to 21-1414 shall be ~~referred to~~ known and may be cited as the Nonstock Cooperative Marketing Act.

Sec. 151. That section 21-1771, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-1771. Any person, corporation, partnership, limited liability company, or association, except credit unions organized under the ~~provisions of sections 21-1760 to 21-17,120~~ Credit Union Act or the Federal Credit Union Act or voluntary Association of Credit Unions, using a name or title containing the words credit union shall be guilty of a Class I misdemeanor and may be enjoined from using such words in its name.

Sec. 152. That section 21-1774, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-1774. The members of a credit union shall consist of the subscribers to the articles of association and such persons, societies, associations, partnerships, limited liability companies, and corporations as have been duly elected members, have subscribed for one or more shares, have paid for such share or shares in whole or in part, have paid the entrance fee provided by the bylaws and have complied with such other requirements as the articles of association and bylaws may specify. A member to be in good standing, for the purpose of obtaining a loan and to vote at membership meetings, must own at least one fully paid share. Credit union organization shall be limited to groups of both large and small membership having a common bond of occupation or association, including religious, social or educational groups, employees of a common employer or members of a fraternal, religious, labor, farm, or educational organization and members of the immediate families of such persons.

A person having been duly admitted to membership; and having complied with the provisions of the Credit Union Act, the articles of association, and the bylaws, and having paid the entrance fee and having paid for at least one share, shall retain full rights and privileges of membership for life; unless that membership ~~be is~~ is terminated by withdrawal or expulsion in the manner provided by ~~the provisions of~~ the Credit Union Act.

Sec. 153. That section 21-1782, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-1782. At all meetings of the members, a member shall have ~~but~~ one vote irrespective of the number of shares held. No shareholder may vote by proxy, but a society, association, partnership, limited liability company, corporation, credit union, federal credit union, or member of the central credit union may appoint an agent with authority to represent it.

Sec. 154. That section 21-1904, Reissue Revised Statutes

of Nebraska, 1943, be amended to read as follows:

21-1904. Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation;

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

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

(4) To purchase, take, receive, lease, take by gift, devise, or bequest, or otherwise acquire, own, hold, improve, use, and otherwise deal in and with real or personal property, or any interest therein, wherever situated;

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

(6) To lend money to its employees other than its officers and directors;

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships, limited liability companies, or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district, ~~or~~ municipality, ~~or~~ of any instrumentality thereof;

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested;

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by the ~~provisions of sections 21-1991 to 21-1994~~ Nebraska Nonprofit Corporation Act in any state, territory, district, or possession of the United States, or in any foreign country;

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

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation;

(13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific, or educational purposes; and in time of war to make donations in aid of war activities;

(14) To indemnify as follows:

(a) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, or investigative other than an action by or in the right of the corporation by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, member, employee, or agent of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise, against expenses including attorneys' attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe ~~his~~ the conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction; or upon a plea of nolo contendere or its equivalent; shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that ~~his~~ the conduct was unlawful;

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, member, employee, or agent of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise against expenses, including attorneys' attorney's fees, actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper;

(c) To the extent that a director, officer, employee, or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in subdivisions (a) and (b) of this subdivision, or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses, including attorneys' attorney's

fees, actually and reasonably incurred by him or her in connection therewith;

(d) Any indemnification under subdivisions (a) and (b) of this subdivision, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subdivisions (a) and (b) of this subdivision. Such determination shall be made by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceeding, or if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion, or by the shareholders or members, as the case may be;

(e) Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the corporation in advance of the final disposition of such action, suit, or proceeding as authorized in the manner provided in subdivision (d) of this subdivision upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation as authorized in this section;

(f) The indemnification provided by this section shall not be deemed exclusive of any other rights to which those indemnified may be entitled under any bylaw, agreement, vote of shareholders, members, or disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of such a person; and

(g) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, member, employee, or agent of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability under ~~the provisions of~~ this section;

(15) To cease its corporate activities and surrender its corporate franchise; and

(16) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized.

Sec. 155. That section 21-2004, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2004. Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation;

(2) To sue and be sued, complain and defend, and participate in administrative or other proceedings, in its corporate name;

(3) To have a corporate seal which may be altered at pleasure and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced;

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

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

(6) To lend money to its employees other than its officers and directors and otherwise assist its employees, officers, and directors;

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships, limited liability companies, or individuals or direct or indirect obligations of the United States or of any government, state, territory, governmental district, or municipality or of any instrumentality thereof;

(8) To make contracts and guarantees and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises, and income;

(9) To lend money to and to guarantee the obligations of others for its corporate purposes, to invest and reinvest its funds, and to take and hold real and personal property as security for the payment of funds so loaned or invested or as security for the obligations of others to it;

(10) To conduct its business, carry on its operations, and have officers and exercise the powers granted by ~~sections 21-2001 to 21-2014~~ the Nebraska Business Corporation Act within or without this state;

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

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation;

(13) To make donations for religious, charitable, scientific, or educational purposes, to make donations for the public welfare, and to subscribe to and generally participate in the creation and maintenance of instrumentalities for the preservation and betterment of social and economic conditions in the territory in which it operates;

(14) To transact any lawful business which the board of

directors shall find will be in aid of governmental policy;

(15) To indemnify as follows:

(a) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, other than an action by or in the right of the corporation, by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, member, employee, or agent of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise against expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him or her in connection with such action, suit, or proceeding if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the corporation and, with respect to any criminal action or proceeding, had reasonable cause to believe that his or her conduct was unlawful;

(b) A corporation shall have power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor by reason of the fact that he or she is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, member, employee, or agent of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made in respect of any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his or her duty to the corporation unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper;

(c) To the extent that a director, officer, employee, or agent of a corporation has been successful on the merits or otherwise in defense of any action, suit, or proceeding referred to in subdivisions (a) and (b) of

this subdivision or in defense of any claim, issue, or matter therein, he or she shall be indemnified against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection therewith;

(d) Any indemnification under subdivisions (a) and (b) of this subdivision, unless ordered by a court, shall be made by the corporation only as authorized in the specific case upon a determination that indemnification of the director, officer, employee, or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in subdivisions (a) and (b) of this subdivision. Such determination shall be made by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit, or proceeding, or if such a quorum is not obtainable, or, even if obtainable a quorum of disinterested directors so directs, by independent legal counsel in a written opinion or by the shareholders or members, as the case may be;

(e) Expenses incurred in defending a civil or criminal action, suit, or proceeding may be paid by the corporation in advance of the final disposition of such action, suit, or proceeding as authorized in the manner provided in subdivision (d) of this subdivision upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay such amount unless it shall ultimately be determined that he or she is entitled to be indemnified by the corporation as authorized in this section;

(f) No provision for the corporation to indemnify a director who is made a party to a proceeding, whether contained in the articles of incorporation, the bylaws, a resolution of shareholders or directors, an agreement, or otherwise, except as contemplated by subdivision (15)(i) of this section, shall be valid unless consistent with this section or, to the extent that indemnity hereunder is limited by the articles of incorporation, consistent with such articles of incorporation. Nothing contained in this section shall limit the corporation's ability to reimburse expenses incurred by a director in connection with his or her appearance as a witness in a proceeding at a time when he or she has not been made a named defendant or respondent in the proceeding;

(g) For purposes of this section, (i) the corporation shall be deemed to have requested a director to serve an employee benefit plan when the performance by him or her of his or her duties to the corporation also imposes duties on, or otherwise involves services by, him or her to the plan or participants or beneficiaries of the plan, (ii) excise taxes assessed on a director with respect to an employee benefit plan pursuant to applicable law shall be deemed fines, and (iii) action taken or omitted by a director with respect to an employee benefit plan in the performance of his or her duties for a purpose reasonably believed by him or her to be in the interest of the participants and beneficiaries of the plan shall be deemed to be for a purpose which is not opposed to the best interests of the corporation;

(h) Unless otherwise limited by the articles of incorporation:

(i) An officer of the corporation shall be indemnified as and

to the extent provided in subdivision (15)(e) of this section for a director and shall be entitled to seek indemnification pursuant to the provisions of subdivision (15)(e) of this section to the same extent as a director;

(ii) A corporation shall have the power to provide indemnification, including advances of expenses, to an officer, employee, or agent of the corporation to the same extent that it may indemnify directors pursuant to this section; and

(iii) A corporation, in addition, shall have the power to indemnify an officer who is not a director, as well as employees and agents of the corporation who are not directors, to such further extent, consistent with law, as may be provided by its articles of incorporation, bylaws, general or specific action of its board of directors, or contract;

(i) A corporation shall have power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, or agent of the corporation or is or was serving at the request of the corporation as a director, officer, member, employee, or agent of another corporation, partnership, limited liability company, joint venture, trust, or other enterprise against any liability asserted against him or her and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the corporation would have the power to indemnify him or her against such liability under the provisions of this section; and

(j) Any indemnification of a director in accordance with this section, including any payment or reimbursement of expenses, shall be reported in writing to the shareholders with the notice of the next shareholders' meeting or prior to such meeting;

(16) To pay pensions and establish pension plans, pension trusts, profit-sharing plans, stock bonus plans, stock option plans, and other incentive, insurance, and welfare plans for any or all of its directors, officers, and employees;

(17) To enter into general partnerships, limited partnerships, whether the corporation be a limited or general partner, joint ventures, syndicates, pools, limited liability companies, associations, and other arrangements for carrying on one or more of the purposes set forth in its articles of incorporation, jointly or in common with others; and

(18) To have and exercise all powers necessary or convenient to effect its purposes.

Sec. 156. That section 21-2102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2102. For purposes of the Nebraska Business Development Corporation Act, unless the context otherwise requires:

(1) Development corporation or corporation shall mean any corporation organized pursuant to the act for the purpose of developing business, industry, and enterprise in the State of Nebraska by the lending of money thereto and otherwise organizing for the purposes set forth in section 21-2104;

(2) Financial institution shall mean any banking institution, insurance company or related corporation, savings and loan association,

~~copartnership~~ partnership, limited liability company, credit union, foundation, trust, licensee under the Small Business Investment Act of 1958, or other entity engaged in lending or investing funds and authorized to do business in the State of Nebraska, including the Research and Development Authority and the United States Small Business Administration;

(3) Member shall mean any financial institution which undertakes to lend money to a development corporation upon its call and in accordance with section 21-2109;

(4) Board of directors shall mean members of the board of directors of a development corporation in office from time to time; and

(5) Loan limit shall mean, for any member, the maximum account permitted to be outstanding at any one time on loans made by any such member to a development corporation, as determined under the Nebraska Business Development Corporation Act.

Sec. 157. That section 21-2108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2108. Notwithstanding any other provisions of law, any person, ~~copartnership~~ partnership, limited liability company, or corporation may acquire, hold, sell, assign, transfer, mortgage, pledge, or otherwise dispose of the shares of capital stock of a development corporation created under the Nebraska Business Development Corporation Act, except that insurance companies, reciprocal exchanges, and fraternal benefit societies shall not invest therein other than as provided in the Insurers Investment Act.

Sec. 158. That section 21-2222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2222. Nothing contained in the Nebraska Professional Corporation Act ~~sections 21-2201 to 21-2222~~ is intended to alter the right of natural persons licensed to provide professional service to organize as a partnership, a limited liability company, an unincorporated association, a business trust, or any other lawful form of business organization.

Sec. 159. That section 21-2434, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2434. Acquiring person shall mean a person who makes or proposes to make a control-share acquisition. If two or more persons act as a partnership, limited partnership, limited liability company, syndicate, or other group pursuant to any agreement, arrangement, relationship, or understanding, whether or not in writing, for the purpose of acquiring, owning, or voting shares of an issuing public corporation, all members of the partnership, limited partnership, limited liability company, syndicate, or other group shall constitute a person for purposes of this section.

Sec. 160. That section 21-2436, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2436. Associate, when used to indicate a relationship with any person, shall mean any of the following: (1) Any corporation,

limited liability company, or organization of which the person is an officer, director, member, or partner or is, directly or indirectly, the owner of ten percent or more of any class of voting stock; (2) any trust or estate in which the person has at least a ten percent beneficial interest or as to which the person serves as trustee or personal representative or in a similar fiduciary capacity; and (3) any relative or spouse of the person, or any relative of the spouse, who has the same residence as such person.

Sec. 161. That section 21-2444, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

21-2444. Person shall mean any individual, corporation, partnership, limited liability company, unincorporated association, or other entity.

Sec. 162. That section 23-114.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-114.05. The erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use of any building, structure, automobile trailer, or land in violation of sections 23-114 to 23-114.05, 23-168.01 to 23-168.04, 23-172 to 23-174, 23-174.02, 23-373, and 23-376 or of any regulation made by the county board under such sections shall be a misdemeanor. Any person, partnership, limited liability company, association, club, or corporation violating such sections or any regulation of the county board or erecting, constructing, reconstructing, altering, or converting any structure without having first obtained a permit shall be guilty of a Class III misdemeanor. Each day such violation continues after notice of violation has been given to the offender may be considered a separate offense. In addition to other remedies, the county board or the proper local authorities of the county, as well as any owner or owners of real estate within the district affected by the regulations, may institute any appropriate action or proceedings to prevent such unlawful construction, erection, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, or to prevent the illegal act, conduct, business, or use in or about such premises. Any taxpayer or taxpayers of the county may institute proceedings to compel specific performance by the proper official or officials of any duty imposed by such sections or in resolutions adopted pursuant to such sections.

Sec. 163. That section 23-2809, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-2809. The county board of corrections may, pursuant to the Interlocal Cooperation Act, contract with any governmental unit for the purposes of implementing and complying with this section and sections 23-1703, 23-2801 to 23-2803, 23-2805, and 23-2806 and may contract with any individual, firm, partnership, limited liability company, or corporation to provide goods or services essential to the operation and maintenance of the county jail.

Sec. 164. That section 23-3594, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-3594. Each hospital authority shall have and exercise

the following powers:

(1) To have perpetual succession as a body politic and corporate, ~~except~~ ; ~~PROVIDED~~, that any county board having declared a hospital authority to be a public corporation and body politic of this state shall, upon a showing duly made and with appropriate notice given to the Secretary of State, but not sooner than upon expiration of a period of two years from and after the date upon which the record relating to formation of such hospital authority was filed with the Secretary of State pursuant to section 23-3587, enter an order dissolving any hospital authority which does not then have under construction, own, lease as lessee or as lessor, or operate a hospital;

(2) To have and use a corporate seal and alter it at pleasure;

(3) To sue and be sued in all courts and places and in all actions and proceedings whatever;

(4) To purchase, receive, have, take, hold, lease as lessee, use, and enjoy property of every kind and description within the limits of the authority, and to control, dispose of, sell for a nominal or other consideration, convey, and encumber the same and create a leasehold interest in the same, as lessor, with any nonprofit person, firm, partnership, limited liability company, association, or corporation, other than a county, city, or village in this state, for the benefit of the authority;

(5) To administer any trust declared or created for hospitals of the authority, and receive by gift, devise, or bequest and hold, in trust or otherwise, property situated in this state or elsewhere; and, ~~where~~ if not otherwise provided, dispose of the same for the benefit of such hospitals;

(6) To employ legal counsel to advise the board of trustees in all matters pertaining to the business of the authority, and to perform such functions in respect to the legal affairs of the authority as the board may direct;

(7) To employ such technical experts; and such officers, agents, and employees, permanent and temporary, as it may require; and to determine their qualifications, duties, and compensation, such technical experts, officers, agents, and employees to hold their offices or positions at the pleasure of the board;

(8) To delegate to one or more of its agents or employees such powers and duties as it deems proper;

(9) To do any and all things which an individual might do which are necessary for and to the advantage of a hospital;

(10) To purchase, construct, establish, or otherwise acquire and to improve, alter, maintain, and operate one or more hospitals situated within the territorial limits of the authority. The term hospital as used in the Hospital Authorities Act ~~sections 23-3579 to 23-35,120~~ shall mean and include, except as used in section 23-3597, any structure or structures suitable for use as a hospital, nursing home, clinic, or other health care facility, laboratory, laundry, nurses' or interns' residences and dormitories, administration buildings, research facilities, and maintenance,

storage, or utility facilities and other structures or facilities reasonably related thereto or required or useful for the operation thereof, including parking and other facilities or structures essential or convenient for the orderly operation thereof and shall also include furniture, instruments, equipment, and machinery and other similar items necessary or convenient for the operations thereof, and; any hospital authority which has established or acquired a hospital may also purchase, construct, or otherwise acquire and improve, alter, maintain, and operate all types of ancillary care facilities, including rehabilitation, recreational, and research facilities for children, addicted persons, disabled individuals, and elderly persons, including both residential and outpatient care and ancillary facilities for physicians, technicians, educators, psychologists, social scientists, scientists, nutritionists, administrators, interns, residents, nurses, students preparing to engage in the health service field, and other health care related personnel;

(11) To enter into contracts and other agreements for the purchase, construction, establishment, acquisition, management, operation, and maintenance of any hospital or any part thereof upon such terms and conditions and for such periods of time as its board of trustees may determine;

(12) To do any and all other acts and things necessary to carry out the ~~provisions of sections 23-3579 to 23-35,120~~ Hospital Authorities Act, including the power to borrow money on its bonds, notes, debentures, or other evidences of indebtedness and to secure the same by pledges of its revenue in the manner and to the extent provided in ~~sections 23-3579 to 23-35,120, the act~~ and to fund or refund the same; and

(13) To acquire, maintain, and operate ambulances or ambulance services within and without the authority.

Sec. 165. That section 23-3595, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

23-3595. All hospitals operated directly by an authority; and not operated or leased as lessee by a nonprofit person, firm, partnership, limited liability company, association, or corporation; shall be operated by the board of trustees of such authority according to the best interests of the public health, and the board of trustees shall make and enforce all rules, regulations, and bylaws necessary for the administration, government, protection, and maintenance of such hospitals and all property belonging thereto and may prescribe the terms upon which patients may be admitted thereto. Such hospitals shall not be required to contract with counties or with agencies thereof to provide care for indigent county patients at below the cost for care. In fixing the basic room rates for such hospitals, the board of trustees shall establish such basic room rates as will, together with other income and revenue available for such purpose and however derived, permit each such hospital to be operated upon a self-supporting basis. In; ~~PROVIDED, that in~~ establishing basic room rates for such hospital, the board of trustees shall give due consideration to at least the following factors: Costs of

administration, operation, and maintenance of such hospitals; ; the cost of making necessary repairs and renewals thereto; ; debt service requirements; ; the creation of reserves for contingencies; ; and projected needs for expansion and for the making of major improvements. Minimum standards of operation for such hospitals, at least equal to those set by the Department of Health, ~~of the State of Nebraska,~~ shall be established and enforced by the board of trustees.

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

Sec. 166. That section 25-403.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-403.02. For purposes of venue, the following definitions shall apply:

(1) Any private corporation organized under the laws of this state and any foreign corporation authorized to transact business in this state is a resident of any county in which it has its registered office or other office or is doing business. A foreign corporation not authorized to transact business in this state is not a resident of this state;

(2) A partnership sued in its firm name is a resident of any county in which any partner resides or in which the partnership has an office or is doing business. If all partners are nonresidents of this state and the partnership does not have an office or do business in this state, the partnership is not a resident of this state; ~~and~~

(3) A voluntary unincorporated association sued in its own name is a resident of any county in which the association has an office or in which any officer of the association resides. If it has no office in this state and no officer resides in this state, the voluntary unincorporated association is not a resident of this state; ~~and~~

(4) A limited liability company organized under the laws of this state and any foreign limited liability company authorized to transact business in this state is a resident of any county in which it has its registered office or other office or is doing business. A foreign limited liability company not authorized to transact business in this state is not a resident of this state.

Sec. 167. That section 25-535, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-535. As used in sections 25-535 to 25-541, person includes an individual, ~~his~~ executor, administrator, ~~or other~~ personal representative, ~~or a~~ corporation, partnership, limited liability company, association, or ~~any~~ other legal or commercial entity, whether or not a citizen or domiciliary of this state and whether or not organized under the

laws of this state.

Sec. 168. That section 25-1010, Revised Statutes Supplement, 1992, be amended to read as follows:

25-1010. (1) When an affidavit is filed in a civil action containing the necessary allegations of an affidavit of attachment and in addition allegations that the affiant has good reason to and does believe that any person, partnership, limited liability company, or corporation to be named and within the county where the action is brought has property of the defendant, describing the same, in his or her possession that cannot be levied upon by attachment, a judge of any district court or county court may direct the clerk to issue a summons and order requiring such person, partnership, limited liability company, or corporation as garnishee to answer written interrogatories, to be furnished by the plaintiff and attached to such summons and order, respecting the matters set forth in section 25-1026. All answers must be given in writing but do not need to be verified or given under oath. All answers so given will be deemed to be true and subject to all of the penalties of perjury in the event of willful falsification.

(2) The summons and order referred to in subsection (1) of this section shall be returnable within five days from the date of the issuance thereof and shall require the garnishee to answer within ten days from the date of service upon him or her. The order shall inform the garnishee (a) of the penalties that may be imposed in the event of willful falsification, (b) that he or she is obligated to hold the property of every description and the credits of the defendant in his or her possession or under his or her control at the time of the service of the order and the interrogatories until further direction from the court, (c) of his or her ability to obtain discharge from liability to the defendant under section 25-1027, and (d) of the ability of the court to enter judgment against him or her upon failure to answer the interrogatories as provided in section 25-1028. If the answers to the interrogatories identify property of the defendant in the possession of the garnishee, the clerk shall mail to the last-known address of the defendant copies of the garnishment summons and answers to interrogatories within five days after the return of the answers to the interrogatories.

(3) Prior to final judgment in an action, no order of garnishment shall issue for wages due from an employer to an employee.

Sec. 169. That section 25-1056, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1056. (1) In all cases when a judgment has been entered by any court of record and the judgment creditor or his or her agent or attorney has filed an affidavit setting forth the amount due on the judgment, interest, and costs in the office of the clerk of the court where the judgment has been entered and that he or she has good reason to and does believe that any person, partnership, limited liability company, or corporation, naming him, her, or it, has property of and is indebted to the judgment debtor, the clerk shall issue a summons which shall set forth the amount due on the judgment, interest, and costs as shown in the affidavit

and require such person, partnership, limited liability company, or corporation, as garnishee, to answer written interrogatories to be furnished by the plaintiff and to be attached to such summons respecting the matters set forth in section 25-1026. The summons shall be returnable within ten days from the date of its issuance and shall require the garnishee to answer within ten days from the date of issuance. Except when wages are involved, the garnishee shall hold the property of every description and the credits of the defendant in his or her possession or under his or her control at the time of the service of the summons and interrogatories until the further order of the court. If the only property in the possession or under the control of the garnishee at the time of the service of the summons and interrogatories is credits of the defendant and the amount of such credits is not in dispute by the garnishee, then such garnishee shall only hold the credits of the defendant in his or her possession or under his or her control at the time of the service of the summons and interrogatories to the extent of the amount of the judgment, interest, and costs set forth in the summons until further order of the court. When wages are involved, the garnishee shall pay to the employee all disposable earnings exempted from garnishment by statute, and any disposable earnings remaining after such payment shall be retained by the garnishee until further order of the court. Thereafter, the service of the summons and interrogatories and all further proceedings shall be in all respects the same as is provided for in sections 25-1011 and 25-1026 to 25-1031.01 unless inconsistent with this section.

(2) If it appears from the answer of the garnishee that the judgment debtor was an employee of the garnishee, that the garnishee otherwise owed earnings to the judgment debtor when the garnishment order was served, or that earnings would be owed within sixty days thereafter and there is not a successful written objection to the order or the answer of the garnishee filed, on application by the judgment creditor, the court shall order that the nonexempt earnings, if any, withheld by the garnishee after service of the order be transferred to the court for payment to the judgment creditor who is entitled to such earnings. The court shall, upon application of the judgment creditor, further order that the garnishment is a continuing lien against the nonexempt earnings of the judgment debtor. An order of continuing lien on nonexempt earnings entered pursuant to this section shall require the garnishee to continue to withhold the nonexempt earnings of the judgment debtor for as long as the continuing lien remains in effect.

Beginning with the pay period during which the writ was served and while the continuing lien remains in effect, the garnishee shall deliver the nonexempt earnings to the court from which the garnishment was issued for each pay period or on a monthly basis if the garnishee so desires and shall deliver to the judgment debtor his or her exempt earnings for each pay period.

(3) A continuing lien ordered pursuant to this section shall be invalid and shall have no force and effect upon the occurrence of any of the following:

(a) The underlying judgment is satisfied in full or vacated or expires;

(b) The judgment debtor leaves the garnishee's employ for more than sixty days;

(c) The judgment creditor releases the garnishment;

(d) The proceedings are stayed by a court of competent jurisdiction, including the United States Bankruptcy Court;

(e) The judgment debtor has not earned any nonexempt earnings for at least sixty days;

(f) The court orders that the garnishment be quashed; or

(g) Ninety days have expired since service of the writ. The judgment creditor may extend the lien for a second ninety-day period by filing with the court a notice of extension within fifteen days of the expiration of the initial lien, and the continuing lien in favor of the initial judgment creditor shall continue for a second ninety-day period.

(4)(a) To determine priority, garnishments and liens shall rank according to time of service.

(b) Garnishments, liens, and wage assignments which are not for the support of a person shall be inferior to wage assignments for the support of a person. Garnishments which are not for the support of a person and liens shall be inferior to garnishments for the support of a person.

(5) Only one order of continuing lien against earnings due the judgment debtor shall be in effect at one time. If an employee's wages are already being garnished pursuant to a continuing lien at the time of service of a garnishment upon an employer, the answer to garnishment interrogatories shall include such information along with the date of termination of such continuing lien and the title of the case from which such garnishment is issued. Except as provided in subsection (4) of this section, a continuing lien obtained pursuant to this section shall have priority over any subsequent garnishment or wage assignment.

Sec. 170. That section 25-1081 Revised Statutes Supplement, 1992, be amended to read as follows:

25-1081. A receiver may be appointed by the district court (1) in an action by a vendor to vacate a fraudulent purchase of property, by a creditor to subject any property or fund to his or her claim, or between partners, members, or others jointly owning or interested in any property or fund on the application of any party to the suit when the property or fund is in danger of being lost, removed, or materially injured, (2) in an action for the foreclosure of a mortgage when the mortgaged property is in danger of being lost, removed, or materially injured or is probably insufficient to discharge the mortgage debt, (3) after judgment or decree to carry the judgment into execution, to dispose of the property according to the decree or judgment, or to preserve it during the pendency of an appeal, (4) in all cases provided for by special statutes, and (5) in all other cases when receivers have heretofore been appointed by the usages of courts of equity.

Sec. 171. That section 25-1801, Reissue Revised Statutes

of Nebraska, 1943, be amended to read as follows:

25-1801. Any person, partnership, limited liability company, association, or corporation in this state having a claim; which amounts to two thousand dollars or less; against any person, partnership, limited liability company, association, or corporation doing business in this state; for (1) services rendered, (2) labor done, (3) material furnished, (4) overcharges made and collected, (5) lost or damaged personal property, (6) damage resulting from delay in transmission or transportation, (7) livestock killed or injured in transit, or (8) charges covering articles and service affecting the life and well-being of the debtor which are adjudged by the court to be necessities of life; may present the same to such person, partnership, limited liability company, association, or corporation, or to any agent thereof, for payment in any county where suit may be instituted for the collection of the same. If, at the expiration of ninety days after the presentation of such claim, the same has not been paid or satisfied, he, ~~she, or it~~ may institute suit thereon in the proper court. If he, ~~she, or it establishes the~~ ~~shall establish his~~ claim and ~~secure~~ secures judgment thereon, he, ~~she, or it~~ shall be entitled to recover the full amount of such judgment and all costs of suit thereon, and, in addition thereto, interest on the amount of the claim at the rate of six percent per annum from the date of presentation thereof, and, if he, ~~she, or it~~ has an attorney employed in the case, an amount for attorney attorney's fees as provided in this section. If the cause is taken to an appellate court and plaintiff shall recover judgment thereon, the appellate court shall tax as costs in the action, to be paid to the plaintiff, an additional amount for attorney attorney's fees in such appellate court as provided in this section, ~~except that~~ ; ~~PROVIDED~~, if the party in interest ~~shall fail~~ fails to recover a judgment in excess of the amount that may have been tendered by any person, partnership, limited liability company, association, or corporation liable ~~hereunder under this section~~, then such party in interest shall not recover the attorney attorney's fees provided by this section. ~~Attorney Attorney's~~ Attorney's fees; ~~as provided by this section~~; shall be assessed by the court in a reasonable amount but shall in no event be less than ten dollars; when the judgment is fifty dollars or less; and when the judgment is over fifty dollars up to two thousand dollars the attorney attorney's fee shall be ten dollars plus ten percent of the judgment in excess of fifty dollars.

Sec. 172. That section 25-1804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-1804. (1) A party seeking an award for fees and other expenses pursuant to sections 25-1802 to 25-1807 shall, not later than thirty days after final judgment is made in the action, submit to the court an application which provides evidence of eligibility for an award pursuant to such sections ~~25-1802 to 25-1807~~ and which specifies the amount sought. If the amount sought includes an attorney's fee or the fee for an expert witness, the application shall include an itemized statement for each such fee indicating the actual time expended in service to the applicant and the rate at which the fees were computed.

(2) Notwithstanding any other provision of such sections, ~~25-1802 to 25-1807~~; fees and other expenses shall be awarded as provided in such sections ~~25-1802 to 25-1807~~ only to those prevailing parties who are:

(a) Natural persons; or

(b) A sole proprietorship, partnership, limited liability company, corporation, association, or public or private organization:

(i) That had an average daily employment of fifty persons or less for the twelve months preceding the filing of such action; and

(ii) Whose gross receipts for the twelve-month period preceding the filing of the action was two million dollars or less or whose average gross receipts for the three twelve-month periods preceding the filing of such appeal pursuant to the Administrative Procedure Act was two million dollars or less, whichever amount is greater.

Sec. 173. That section 25-21,161, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-21,161. The word person wherever used in the Uniform Declaratory Judgments Act sections ~~25-21,149 to 25-21,164~~, shall be construed to mean any person, partnership, limited liability company, joint-stock company, unincorporated association, ~~or~~ society, or municipal or other corporation of any character whatsoever.

Sec. 174. That section 25-2803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

25-2803. (1) Parties in the Small Claims Court may be individuals, partnerships, limited liability companies, corporations, unions, associations, or any other kind of organization or entity.

(2) No party shall be represented by an attorney in the Small Claims Court except as provided in section 25-2805.

(3) An individual shall represent himself or herself in the Small Claims Court. A partnership shall be represented by a partner or one of its employees. A limited liability company shall be represented by a member, a manager, or one of its employees. A union shall be represented by a union member or union employee. A corporation shall be represented by one of its employees. An association shall be represented by one of its members or by an employee of the association. Any other kind of organization or entity shall be represented by one of its members or employees.

(4) Only a party, natural or otherwise, who has been a party to the transaction with the defendant for which the claim is brought may file and prosecute a claim in the Small Claims Court.

(5) No party may file an assigned claim in the Small Claims Court.

(6) No party shall file more than two claims within any calendar week nor more than ten claims in any calendar year in the Small Claims Court. This subsection shall not apply to actions brought pursuant to section 25-21,194.

(7) Notwithstanding any other provision of this section, a personal representative of a decedent's estate, a guardian, or a conservator

may be a party in the Small Claims Court.

Sec. 175. That section 28-401, Revised Statutes Supplement, 1992, be amended to read as follows:

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

(1) Administer shall mean the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by: (a) A practitioner or, in his or her presence, by his or her authorized agent; or (b) the patient or research subject at the direction and in the presence of the practitioner;

(2) Agent shall mean an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. Agent shall not include a common or contract carrier, public warehouse keeper, or employee of the carrier or warehouse keeper;

(3) Administration shall mean the Drug Enforcement Administration, United States Department of Justice;

(4) Controlled substance shall mean a drug, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled substance shall not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act and the law of this state, be lawfully sold over the counter without a prescription;

(5) Counterfeit substance shall mean a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed such substance and which thereby falsely purports or is represented to be the product of, or to have been distributed by, such other manufacturer, distributor, or dispenser;

(6) Department shall mean the Department of Health;

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

(8) Bureau of Examining Boards shall mean personnel of the department responsible for the enforcement of the Uniform Controlled Substances Act in the areas assigned to it by the act;

(9) Dispense shall mean to deliver a controlled substance to an ultimate user or a research subject pursuant to the lawful order or prescription of a physician, dentist, veterinarian, or other medical practitioner licensed under the laws of this state to prescribe drugs, including the packaging, labeling, or compounding necessary to prepare the substance for such delivery. Dispenser shall mean the apothecary, pharmacist, or other practitioner, duly licensed, who dispenses a controlled substance to an ultimate user or a research subject;

(10) Distribute shall mean to deliver other than by administering or dispensing a controlled substance. Distributor shall

mean a person who so distributes a controlled substance;

(11) Prescribe shall mean the act of a physician, surgeon, dentist, veterinarian, or other medical practitioner licensed under the laws of this state in issuing an order, prescription, or direction to a pharmacist or pharmacy to dispense a drug as required by the laws of this state;

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

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

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

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

(16) Narcotic drug shall mean any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (a) Opium, opium poppy and poppy straw, coca leaves, and opiates; (b) a compound, manufacture, salt,

derivative, or preparation of opium, coca leaves, or opiates; or (c) a substance and any compound, manufacture, salt, derivative, or preparation thereof which is chemically equivalent to or identical with any of the substances referred to in subdivisions (a) and (b) of this subdivision, except that the words narcotic drug as used in this article shall not include decocainized coca leaves or extracts of coca leaves, which extracts do not contain cocaine or ecgonine, or isoquinoline alkaloids of opium;

(17) Opiate shall mean any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. Opiate shall not include the dextrorotatory isomer of 3-methoxy-n methylmorphinan and its salts. Opiate shall include its racemic and levorotatory forms;

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

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

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

(21) Practitioner shall mean a physician, dentist, veterinarian, pharmacist, scientific investigator, pharmacy, or hospital, licensed, registered, or otherwise permitted to distribute, dispense, prescribe, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or administer a controlled substance in the course of professional practice or research in this state;

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

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

(24) State shall mean the State of Nebraska;

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

(26) Physician shall mean a person authorized by law to practice medicine in this state and any other person authorized by law to treat sick and injured human beings in this state;

(27) Dentist shall mean a person authorized by law to practice dentistry in this state;

(28) Veterinarian shall mean a person authorized by law to practice veterinary medicine in this state;

(29) Hospital shall mean an institution for the care and treatment of sick and injured human beings and approved by the

department;

(30) Podiatrist shall mean a person authorized by law to practice podiatry and who has graduated from an accredited school of podiatry in or since 1935;

(31) Apothecary shall mean a licensed pharmacist as defined by the laws of this state and, when the context so requires, the owner of the store or other place of business where drugs are compounded or dispensed by a licensed pharmacist, but nothing in this subdivision shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege that is not granted to him or her by the pharmacy laws of this state;

(32) Nothing in the Uniform Controlled Substances Act shall be construed as authority for a practitioner to perform an act for which he or she is not authorized by the laws of this state;

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

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

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

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

(37) Controlled substance analogue shall mean a substance (a) the chemical structure of which is substantially similar to the chemical structure of a Schedule I or Schedule II controlled substance as provided in section 28-405 or (b) which has a stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, analgesic, or hallucinogenic effect on the central nervous system of a Schedule I or Schedule II controlled substance as provided in section 28-405. A controlled substance analogue shall, to the extent intended for human consumption, be treated as a controlled substance under Schedule I of section 28-405 for purposes of this article. Controlled substance analogue shall not include (i) a controlled substance, (ii) any substance considered generally recognized as safe and effective within the meaning of the

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq., (iii) any substance for which there is an approved new drug application, or (iv) with respect to a particular person, any substance if an exemption is in effect for investigational use for that person, under section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent conduct with respect to such substance is pursuant to such exemption; and

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

Sec. 176. That section 28-425, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-425. (1) No person, firm, corporation, ~~or copartnership~~ partnership, or limited liability company shall manufacture, give away, sell, expose for sale, or deliver any embalming fluid or other fluids of whatsoever name, to be used for or intended for use in the embalming of dead human bodies, which contain arsenic or strychnine, or preparations, compounds, or salts thereof, without having the words arsenic contained herein or strychnine contained herein, as the case may be, written or printed upon a label pasted on the bottle, cask, flask, or carboy in which such fluid shall be contained.

(2) No undertaker or other person shall embalm with, inject into, or place upon any dead human body, any fluid or preparation of any kind which contains arsenic or strychnine, or preparations, compounds, or salts thereof.

(3) Any person, firm, corporation, ~~or copartnership~~ partnership, or limited liability company violating any of the provisions of subsection (1) or (2) of this section shall be guilty of a Class III misdemeanor.

Sec. 177. That section 28-613, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-613. (1) A person commits a Class I misdemeanor if he ~~or she~~ solicits, accepts, or agrees to accept any benefit as consideration for knowingly violating or agreeing to violate a duty of fidelity to which he ~~or she~~ is subject as:

- (a) Agent or employee; or
- (b) Trustee, guardian, or other fiduciary; or
- (c) Lawyer, physician, accountant, appraiser, or other professional advisor; or
- (d) Officer, director, partner, member, manager, or other participant in the direction of the affairs of an incorporated or

unincorporated association; or

(e) Duly elected or appointed representative or trustee of a labor organization or officer of a welfare trust fund; or

(f) Arbitrator or other purportedly disinterested adjudicator or referee.

(2) A person who holds himself or herself out to the public as being engaged in the business of making disinterested selection, appraisal, or criticism of commodities, property, or services; commits a Class I misdemeanor if he or she solicits, accepts, or agrees to accept any benefit to alter, modify, or change his or her selection, appraisal, or criticism.

(3) A person commits a Class I misdemeanor if he or she confers or offers or agrees to confer any benefit the acceptance of which would be an offense under subsection (1) or (2) of this section.

Sec. 178. That section 28-807, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-807. As used in sections 28-807 to 28-829, unless the context otherwise requires:

(1) Adult shall mean any married person or any unmarried person of the age of eighteen years or older;

(2) Commercial film and photographic print processor shall mean any person who for compensation develops exposed photographic film into negatives, slides, or prints or who for compensation makes prints from negatives or slides. The term shall include, but not be limited to, any employee of such a person but shall not include employees of law enforcement agencies and prosecuting attorneys involved in the investigation and prosecution of criminal offenses or to persons involved in legitimate medical, scientific, or educational activities;

(3) Distribute shall mean to transfer possession, whether with or without consideration, by any means;

(4) Disseminate shall mean to manufacture, issue, publish, sell, lend, distribute, transmit, exhibit, or present materials or to offer in person or through an agent or by placing an advertisement for the same, whether with or without consideration, or agree to do the same;

(5) Knowingly shall mean having general knowledge of, reason to know, or a belief or reasonable ground for belief which warrants further inspection or inquiry of the character and content of any material, taken as a whole, described in this section, which is reasonably susceptible to examination by the defendant;

(6) Harmful to minors shall mean that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse, when it (a) predominantly appeals to the prurient, shameful, or morbid interest of minors, (b) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors, and (c) is lacking in serious literary, artistic, political, or scientific value for minors;

(7) Material or work shall mean any book, ~~or~~ magazine, newspaper, comic book, pamphlet, or other printed or written material or

any picture, drawing, photograph, figure, image, motion picture, whether or not positive or negative exhibited or screened, play, nightclub, ~~or~~ live performance, television production, other pictorial representation or electric reproduction, ~~or any~~ recording transcription, mechanical or otherwise, or ~~any~~ other articles, equipment, machines, or materials;

(8) Minor shall mean any unmarried person under the age of eighteen years;

(9) Nudity shall mean the showing of the human, post-pubertal male or female genitals, pubic area, or buttocks with less than a full opaque covering, the depiction of covered male genitals in a discernibly turgid state, or the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple;

(10) Obscene shall mean (a) that an average person applying contemporary community standards would find that the work, material, conduct, or live performance taken as a whole predominantly appeals to the prurient interest or a shameful or morbid interest in nudity, sex, or excretion, (b) the work, material, conduct, or live performance depicts or describes in a patently offensive way sexual conduct specifically set out in sections 28-807 to 28-829, and (c) the work, conduct, material, or live performance taken as a whole lacks serious literary, artistic, political, or scientific value;

(11) Place shall mean any building, structure, or place or any separate part or portion thereof or the ground itself;

(12) Person shall mean any individual, partnership, limited liability company, firm, association, corporation, trustee, lessee, agent, assignee, or other legal entity;

(13) Performance, whether with or without consideration, shall mean any play, motion picture, dance, or other exhibition performed before an audience;

(14) Promote shall mean to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or place an order for advertising; or to knowingly offer in person or through an agent or agree to do the same;

(15) Sexual conduct shall mean acts of masturbation, homosexuality, sodomy, sexual intercourse, or prolonged physical contact with a person's clothed or unclothed genitals, pubic area, or buttocks or, if such person ~~be~~ is female, breast;

(16) Sexual excitement shall mean the condition of human male or female genitals when in a state of sexual stimulation or arousal; and

(17) Sadoomasochistic abuse shall mean flagellation or torture by or upon a nude person or a person clad in undergarments, a mask, or a bizarre costume or the condition of being fettered, bound, or otherwise physically restrained when performed to predominantly appeal to the shameful or morbid interest.

Sec. 179. That section 28-1210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1210. (1) Any person, partnership, limited liability

company, or corporation selling any gun or other device as described in section 28-1209 ~~who~~ which fails to immediately notify the sheriff of the county of the sale and giving the name and address of the purchaser thereof and the make and number of the gun or device; commits the offense of failure to notify the sheriff of the sale of tranquilizer guns.

(2) The sheriff shall keep a record of such sale with the information furnished ~~him~~ pursuant to this section.

(3) Failure to notify the sheriff of the sale of tranquilizer guns is a Class III misdemeanor.

Sec. 180. That section 28-1213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1213. As used in sections 28-1213 to 28-1239, unless the context otherwise requires:

(1) Person shall mean any individual, corporation, company, association, firm, partnership, limited liability company, society, or joint-stock company;

(2) Business enterprise shall mean any corporation, partnership, limited liability company, company, or joint-stock company;

(3) Explosive materials shall mean explosives, blasting agents, and detonators;

(4) Explosives shall mean any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, including, but not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, ignited cord, igniters, display fireworks as defined in section 28-1241, and firecrackers or devices containing more than one hundred thirty milligrams of explosive composition, but shall not include common fireworks as defined in section 28-1241, gasoline, kerosene, naphtha, turpentine, benzine, acetone, ethyl ether, benzol, fixed ammunition and primers for small arms, safety fuses, or matches;

(5) Blasting agent shall mean any material or mixture, consisting of fuel and oxidizer, intended for blasting, not otherwise defined as an explosive, but shall not include a finished product, ready for use or shipment, which cannot be detonated by means of a number eight test blasting cap when unconfined;

(6) Detonator shall mean any device containing a detonating charge that is used for initiating detonation in an explosive, including, but not limited to, electric blasting caps of instantaneous and delay types, blasting caps for use with safety fuses, and detonating cord delay connectors;

(7) Destructive devices shall mean:

(a) Any explosive, incendiary, or poison gas (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, (vi) booby trap, or (vii) Molotov cocktail, or any similar device, the primary or common purpose of which is to explode and to be used as a weapon against any person or property; or

(b) Any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subdivision (7)(a) of this section from which a destructive device may be readily assembled. The term destructive device shall not include (i) any device which is neither designed nor redesigned for use as a weapon to be used against person or property, (ii) any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line-throwing, safety, or similar device, (iii) surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to 10 U.S.C. 4684(2), 4685, or 4686, (iv) any other device which the Nebraska State Patrol finds is not likely to be used as a weapon or is an antique, or (v) any other device possessed under circumstances negating an intent that the device be used as a weapon against any person or property;

(8) Federal permittee shall mean any lawful user of explosive materials who has obtained a federal user permit under 18 U.S.C. chapter 40;

(9) Federal licensee shall mean any importer, manufacturer, or dealer in explosive materials who has obtained a federal importers', manufacturers', or dealers' license under 18 U.S.C. chapter 40; and

(10) Smokeless propellants shall mean solid propellants commonly called smokeless powders in the trade and used in small arms ammunition.

Sec. 181. That section 28-1229, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1229. (1) The Nebraska State Patrol shall have the authority to issue permits for:

- (a) The storage of explosive materials;
- (b) The use of explosive materials; and
- (c) The purchase of explosive materials by business enterprises.

(2) The Nebraska State Patrol shall not issue a permit to store or use explosive materials to any person who:

- (a) Is under nineteen years of age;
- (b) Has been convicted in any court of a felony;
- (c) Is charged with a felony;
- (d) Is a fugitive from justice;
- (e) Is an unlawful user of any depressant, stimulant, or narcotic drug;

(f) Has been admitted as a patient or inmate in a public or private institution for the treatment of a mental or emotional disease or disorder within five years preceding the date of application; or

(g) Has no reasonable educational, industrial, commercial, agricultural, recreational, or other legitimate need for a permit to store or use explosive materials.

(3) Upon filing of a proper application and payment of the prescribed fee, and subject to the provisions of sections 28-1213 to 28-1239 and other applicable laws, the Nebraska State Patrol shall issue

to such applicant a permit to store explosive materials if:

(a) The applicant, including, in the case of a corporation, partnership, limited liability company, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, limited liability company, or association, is not a person to whom the Nebraska State Patrol is prohibited to issue a permit under subsection (2) of this section;

(b) The applicant has not willfully violated any of the provisions of sections 28-1213 to 28-1239 or of 18 U.S.C. chapter 40; and

(c) The applicant has a place of storage for explosive materials which meets such standards of public safety, based on the class, type, and quantity of explosive materials to be stored, and security against theft as prescribed in rules and regulations adopted and promulgated by the Nebraska State Patrol pursuant to sections 28-1213 to 28-1239 and by the Secretary of the Treasury of the United States pursuant to 18 U.S.C. chapter 40.

(4) A permit for the storage of explosive materials shall specify the class, type, and quantity of explosive materials which are authorized to be stored. It shall also specify the type of security required. A permit for the storage of explosive materials shall be valid for a period of three years unless a shorter period is specified in the permit.

(5) Upon filing of a proper application and payment of the prescribed fee, and subject to the provisions of sections 28-1213 to 28-1239 and other applicable laws, the Nebraska State Patrol shall issue to such applicant a permit to use explosive materials if:

(a) The applicant is an individual to whom the Nebraska State Patrol is not prohibited to issue a permit under subsection (2) of this section;

(b) The applicant has not willfully violated any of the provisions of sections 28-1213 to 28-1239 or of 18 U.S.C. chapter 40;

(c) The applicant has demonstrated and certified in writing that he or she is familiar with all published laws of this state and published local ordinances relating to the use of explosive materials applicable at the place or places he or she intends to use such explosive materials; and

(d) The applicant has demonstrated that he or she has adequate knowledge, training, and experience in the use of explosive materials of the class and type for which he or she seeks a users permit and has passed a qualifying examination, as prescribed by the Nebraska State Patrol, concerning the use of such explosive materials.

(6) A permit for the use of explosive materials shall specify the class and type of explosive materials the permitholder is qualified to use. It shall be applicable to the permitholder and to any individual acting under his or her direct personal supervision. A permit may be issued for a single use of explosive materials or, where the applicant is engaged or employed in a business requiring the frequent use of explosive materials, for a period of not more than two years.

(7) Upon filing of a proper application and payment of the

prescribed fees and subject to ~~the provisions of~~ sections 28-1213 to 28-1239 and other applicable laws, the Nebraska State Patrol shall issue to a business enterprise a permit to purchase explosive materials if:

(a) The business enterprise has a place of business in this state;

(b) No individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the business enterprise is a person to whom the Nebraska State Patrol is prohibited to issue a permit under subsection (2) of this section;

(c) An authorized officer of the business enterprise certifies that all explosive materials will be used on the date of purchase of such materials unless such business enterprise is in possession of a valid storage permit; and

(d) The business enterprise employs at least one employee having a valid use permit issued under this section.

(8) A permit for a business enterprise to purchase explosive materials shall specify the class and type of explosive materials which are authorized to be purchased. The class and type of explosive materials covered by such permit shall be the same as those specified in the use permit or permits issued to an employee or employees of the business enterprise. The permit may be issued for a period of up to two years but shall become void if the business enterprise ceases to employ an individual having a valid use permit issued under this section for the class and type of explosive materials covered by the purchase permit of the business enterprise.

Sec. 182. That section 28-1240, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1240. (1) Any person, partnership, limited liability company, firm, or corporation (a) who ~~shall load, unload, transport, or cause loads, unloads, transports, or causes~~ to be transported over the public highways of this state anhydrous ammonia in a tank or container with a water gallon capacity of three thousand gallons or less; which will not withstand two-hundred-fifty-pounds-per-square-inch gauge pressure; or in a tank or container with a water gallon capacity of more than three thousand gallons which will not withstand two-hundred-sixty-five-pounds-per-square inch gauge pressure and does not meet all the other requirements of the United States Department of Transportation Specifications MC 330 or MC 331, as amended and effective September 1, 1965, or (b) who ~~shall operate~~ operates any anhydrous ammonia railroad tank cars over the railroads of this state which fail to comply with all of the applicable requirements of the United States Department of Transportation in effect on December 25, 1969, commits the offense of unlawful transportation of anhydrous ammonia.

(2) Compliance with this section must be shown by an identification plate permanently affixed to a conspicuous place on each tank or container. After July 17, 1986, whenever any tank or container is altered subsequent to its original manufacture, the identification plate of such tank or container shall be changed to indicate proof that the tank or

container is able to meet standards prescribed in subsection (1) of this section after the tank or container has been altered. Any tank or container which is so altered without making the appropriate changes on its identification plate shall be considered not in compliance with this section.

(3) Unlawful transportation of anhydrous ammonia is a Class II misdemeanor.

(4) Each day of a violation of this section shall constitute a separate offense, and any person, partnership, limited liability company, firm, or corporation operating, loading, or unloading a tank or container not in compliance with this section shall be considered as a separate violator of this section.

(5) It shall be unlawful for any person to use or cause to be used any tank or container with a water gallon capacity of under three thousand gallons; which is or has been used to contain anhydrous ammonia; for containing propane or liquefied natural gas. Such unlawful use of a tank or container shall be a Class III misdemeanor.

(6) Subsection (5) of this section shall not be applicable when the owner of the tank or container can show that the tank or container has been properly prepared for alternative use. Standards for such preparation shall be adopted and promulgated by the State Fire Marshal pursuant to this section.

Sec. 183. That section 28-1250, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1250. (1) Any person who violates any of the provisions of sections 28-1244 to 28-1249 commits a Class III misdemeanor. If such person is a licensed distributor or jobber he or she shall be subject to the revocation of his or her license for a period of one year.

(2) It shall be unlawful for any person, association, partnership, limited liability company, or corporation to have in his, her, or its possession any fireworks in violation of any of the provisions of such sections, ~~28-1244 to 28-1249~~. If any person shall have in his, her, or its possession any fireworks in violation of such sections, a warrant may be issued for the seizure of such fireworks and when the warrant is executed by the seizure of such fireworks, such fireworks shall be safely kept by the magistrate to be used as evidence. Upon conviction of the offender, the fireworks shall be destroyed, but if the offender ~~shall be~~ is discharged, the fireworks shall be returned to the person in whose possession they were found. Nothing in such sections ~~28-1244 to 28-1249~~ shall apply to the transportation of fireworks by regulated carriers.

Sec. 184. That section 28-1251, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1251. (1) It shall be unlawful for any person, association, partnership, limited liability company, or corporation to conduct fire alarm tests and fire alarm inspections without prior written certification by the State Fire Marshal as to the qualifications of such persons conducting such tests and inspections.

(2) The State Fire Marshal shall formulate reasonable

guidelines to determine qualifications for fire alarm inspectors and shall administer an examination pursuant to such guidelines prior to certification of applicants.

(3) The State Fire Marshal may charge a fee of one hundred dollars to cover costs of administering such examinations.

(4) Unlawful testing or inspection of fire alarms is a Class III misdemeanor.

Sec. 185. That section 28-1323, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1323. Unless exempt under section 28-1325, it is unlawful for any person, firm, partnership, limited liability company, corporation, or association knowingly to (1) transfer or cause to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded onto any other phonograph record, disc, wire, tape, film, or other article; or (2) sell, distribute, circulate, offer for sale, distribution or circulation, possess for the purpose of sale, distribution, or circulation, or cause to be sold, distributed, or circulated, offered for sale, distribution, or circulation, or possessed for sale, distribution, or circulation; any article or device on which sounds have been transferred without the consent of the person who owns the master phonograph record, master disc, master tape, master wire, master film, or other article from which the sounds are derived.

Sec. 186. That section 28-1324, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1324. It is unlawful for any person, firm, partnership, limited liability company, corporation, or association to sell, distribute, circulate, offer for sale, distribution, or circulation, or possess for the purpose of sale, distribution, or circulation; any phonograph record, disc, wire, tape, film, or other article on which sounds have been transferred unless such phonograph record, disc, wire, tape, film, or other article bears the actual name and address of the transferor of the sounds in a prominent place on its outside face or package.

Sec. 187. That section 28-1420, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1420. It shall be unlawful for any person, partnership, limited liability company, or corporation; to sell, keep for sale, or give away in course of trade, any cigars, tobacco, cigarettes, or cigarette material; to anyone; without first obtaining a license as provided in sections 28-1421 and 28-1422. It shall also be unlawful for any wholesaler to sell or deliver any cigars, tobacco, cigarettes, or cigarette material to any person, partnership, limited liability company, or corporation who, at the time of such sale or delivery, is not the recipient of a valid tobacco license for the current year to retail the same; as provided in ~~said~~ such sections. It shall also be unlawful for any person, partnership, limited liability company, or corporation to purchase or receive, for purposes of resale, any cigars, tobacco, cigarettes, or cigarette material if such person, partnership, limited liability company, or corporation is not the recipient of a valid tobacco license to retail such tobacco products at the time the

same are purchased or received. Whoever shall be found guilty of violating ~~any provision of~~ this section shall be guilty of a Class III misdemeanor for each offense.

Sec. 188. That section 28-1421, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1421. Licenses for the sale of cigars, tobacco, cigarettes, and cigarette material to persons over the age of eighteen years; shall be issued to individuals, partnerships, limited liability companies, and corporations; by the clerk or finance director of any city or village; and by the county clerk of any county; upon application duly made as provided in section 28-1422. ~~The~~ ~~PROVIDED, that the~~ sale of cigarettes or cigarette materials that ~~shall~~ contain perfumes; or drugs in any form; is prohibited and is not licensed by the provisions of this ~~law section~~. Only cigarettes and cigarette material containing pure white paper and pure tobacco shall be licensed.

Sec. 189. That section 28-1422, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1422. Every person, partnership, limited liability company, or corporation; desiring a license under sections 28-1420 to 28-1429; shall file with the clerk or finance department of the city, town, or village where his, her, their, or its place of business is located, if within the limits of a city, town, or village; or with the clerk of the county where such place of business is located if outside the limits of any city, town, or village; a written application; stating the name of the person, partnership, limited liability company, or corporation for whom such license is desired; and the exact location of the place of business; and shall deposit with such application the amount of the license fee hereinafter provided in section 28-1423.

Sec. 190. That section 28-1423, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

28-1423. The term for which such license shall run shall be from the date of filing such application and paying such license fee to and including December 31 of the calendar year in which application for such license is made, and the license fee for any person, partnership, limited liability company, or corporation selling at retail shall be twenty-five dollars in cities of the metropolitan class, fifteen dollars in cities of the primary and first classes, and ten dollars in cities of all other classes and in towns and villages; and in locations outside of the limits of cities, towns and villages. ~~Any~~ ~~PROVIDED, that any~~ person, partnership, limited liability company, or corporation selling annually in the aggregate more than one hundred ~~and~~ fifty thousand cigars, packages of cigarettes, and packages of tobacco in any form, at wholesale, shall pay a license fee of one hundred dollars, and if such combined annual sales amount to less than one hundred ~~and~~ fifty thousand cigars, packages of cigarettes and packages of tobacco, the annual license fee shall be fifteen dollars. ~~No~~ ~~AND PROVIDED FURTHER, that no~~ wholesaler's license shall be issued in any year on a less basis than one hundred dollars per annum; unless the applicant for the same shall file with such

application a statement duly sworn to by himself or herself, or if applicant is a partnership, by a member of the firm, or if a limited liability company, by a member or manager of the company, or if a corporation, by an officer or manager thereof, that in the past such wholesaler's combined sales of cigars, packages of cigarettes, and packages of tobacco in every form; have not exceeded in the aggregate one hundred ~~and~~ fifty thousand annually, and that such sales will not exceed such aggregate amount for the current year for which the license is to issue. Any person swearing falsely in such affidavit shall be guilty of perjury; and upon conviction thereof; shall be punished as provided by section 28-915; and such wholesaler's license shall be revoked until the full license fee of one hundred dollars is paid. ~~If ; PROVIDED, FURTHER, that if~~ application for license is made after July 1 of any calendar year, the fee shall be one-half of the fee provided in this section.

Sec. 191. That section 29-1507, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-1507. When any offense shall be committed upon or in relation to any property belonging to several partners, members, or owners, and an indictment for such offense is returned, the allegation of ownership therein shall be sufficient if it alleges that such property belonged to any one or more of such partners, members, or owners, without naming all of them.

Sec. 192. That section 29-3513, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

29-3513. Person shall mean any natural person, corporation, partnership, limited liability company, firm, or association.

Sec. 193. That section 30-2209, Revised Statutes Supplement, 1992, be amended to read as follows:

30-2209. Subject to additional definitions contained in the subsequent articles which are applicable to specific articles or parts, and unless the context otherwise requires, in the Nebraska Probate Code:

(1) Application means a written request to the registrar for an order of informal probate or appointment under part 3 of Article 24.

(2) Beneficiary, as it relates to trust beneficiaries, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer, and as it relates to a charitable trust includes any person entitled to enforce the trust.

(3) Child includes any individual entitled to take as a child under the code by intestate succession from the parent whose relationship is involved and excludes any person who is only a stepchild, a foster child, or a grandchild or any more remote descendant.

(4) Claim, in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person whether arising in contract, in tort or otherwise, and liabilities of the estate which arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration. The term does not include estate or inheritance taxes, demands or disputes

regarding title of a decedent or protected person to specific assets alleged to be included in the estate.

(5) Court means the court or branch having jurisdiction in matters relating to the affairs of decedents. This court in this state is known as county court.

(6) Conservator means a person who is appointed by a court to manage the estate of a protected person.

(7) Devise, when used as a noun, means a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will.

(8) Devisee means any person designated in a will to receive a devise. In the case of a devise to an existing trust or trustee, or to a trustee on trust described by will, the trust or trustee is the devisee and the beneficiaries are not devisees.

(9) Disability means cause for a protective order as described by section 30-2630.

(10) Disinterested witness to a will means any individual who acts as a witness to a will and is not an interested witness to such will.

(11) Distributee means any person who has received property of a decedent from his or her personal representative other than as a creditor or purchaser. A testamentary trustee is a distributee only to the extent of distributed assets or increment thereto remaining in his or her hands. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, testamentary trustee includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

(12) Estate includes the property of the decedent, trust, or other person whose affairs are subject to the Nebraska Probate Code as originally constituted and as it exists from time to time during administration.

(13) Exempt property means that property of a decedent's estate which is described in section 30-2323.

(14) Fiduciary includes personal representative, guardian, conservator, and trustee.

(15) Foreign personal representative means a personal representative of another jurisdiction.

(16) Formal proceedings mean those conducted before a judge with notice to interested persons.

(17) Guardian means a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment, but excludes one who is merely a guardian ad litem.

(18) Heirs mean those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent.

(19) Incapacitated person is as defined in section 30-2601.

(20) Informal proceedings mean those conducted without notice to interested persons by an officer of the court acting as a registrar

for probate of a will or appointment of a personal representative.

(21) Interested person includes heirs, devisees, children, spouses, creditors, beneficiaries, and any others having a property right in or claim against a trust estate or the estate of a decedent, ward, or protected person which may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

(22) Interested witness to a will means any individual who acts as a witness to a will at the date of its execution and who is or would be entitled to receive any property thereunder if the testator then died under the circumstances existing at the date of its execution, but does not include any individual, merely because of such nomination, who acts as a witness to a will by which he or she is nominated as personal representative, conservator, guardian, or trustee.

(23) Issue of a person means all his or her lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in the Nebraska Probate Code.

(24) Lease includes an oil, gas, or other mineral lease.

(25) Letters include letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

(26) Minor means an individual under nineteen years of age, but in case any person marries under the age of nineteen years his or her minority ends.

(27) Mortgage means any conveyance, agreement, or arrangement in which property is used as security.

(28) Nonresident decedent means a decedent who was domiciled in another jurisdiction at the time of his or her death.

(29) Notice means compliance with the requirements of notice pursuant to subdivisions (a)(1) and (a)(2) of section 30-2220.

(30) Organization includes a corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, or association, two or more persons having a joint or common interest, or any other legal entity.

(31) Parent includes any person entitled to take, or who would be entitled to take if the child died without a will, as a parent under the Nebraska Probate Code, by intestate succession from the child whose relationship is in question and excludes any person who is only a stepparent, foster parent, or grandparent.

(32) Person means an individual, a corporation, an organization, a limited liability company, or other legal entity.

(33) Personal representative includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

(34) Petition means a written request to the court for an order after notice.

(35) Proceeding includes action at law and suit in equity, but does not include a determination of inheritance tax under Chapter 77, article 20, or estate tax apportionment as provided in sections 77-2108 to 77-2112.

(36) Property includes both real and personal property or any interest therein and means anything that may be the subject of ownership.

(37) Protected person is as defined in section 30-2601.

(38) Protective proceeding is as defined in section 30-2601.

(39) Registrar refers to the official of the court designated to perform the functions of registrar as provided in section 30-2216.

(40) Relative or relation of a person means all persons who are related to him or her by blood or legal adoption.

(41) Security includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral-trust certificate, transferable share, voting-trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation, any temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing.

(42) Settlement, in reference to a decedent's estate, includes the full process of administration, distribution, and closing.

(43) Special administrator means a personal representative as described by sections 30-2457 to 30-2461.

(44) State includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(45) Successor personal representative means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

(46) Successors mean those persons, other than creditors, who are entitled to property of a decedent under his or her will or the Nebraska Probate Code.

(47) Supervised administration refers to the proceedings described in Article 24, part 5.

(48) Testacy proceeding means a proceeding to establish a will or determine intestacy.

(49) Testator means the maker of a will.

(50) Trust includes any express trust, private or charitable, with additions thereto, wherever and however created. It also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. Trust excludes other constructive trusts, and it excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in Article 27, custodial

arrangements pursuant to the Nebraska Uniform Transfers to Minors Act, business trusts providing for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts, and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, and any arrangement under which a person is nominee or escrowee for another.

(51) Trustee includes an original, additional, or successor trustee, whether or not appointed or confirmed by court.

(52) Ward is as defined in section 30-2601.

(53) Will means any instrument, including any codicil or other testamentary instrument complying with sections 30-2326 to 30-2338, which disposes of personal or real property, appoints a personal representative, conservator, guardian, or trustee, revokes or revises an earlier executed testamentary instrument, or encompasses any one or more of such objects or purposes.

Sec. 194. That section 30-2701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

30-2701. In this part, unless the context otherwise requires:

(1) Account means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit, share account and other like arrangement;

(2) Beneficiary means a person named in a trust account as one for whom a party to the account is named as trustee;

(3) Financial institution means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, building and loan associations, savings and loan companies or associations, and credit unions;

(4) Joint account means an account payable on request to one or more of two or more parties whether or not mention is made of any right of survivorship;

(5) A multiple-party account is any of the following types of account: (i) a joint account, (ii) a P.O.D. account, or (iii) a trust account. It does not include accounts established for deposit of funds of a partnership, limited liability company, joint venture, or other association for business purposes, or accounts controlled by one or more persons as the duly authorized agent or trustee for a corporation, limited liability company, unincorporated association, charitable or civic organization or a regular fiduciary or trust account where the relationship is established other than by deposit agreement;

(6) Net contribution of a party to a joint account as of any given time is the sum of all deposits thereto made by or for him or her, less all withdrawals made by or for him or her which have not been paid to or applied to the use of any other party, plus a pro rata share of any interest or dividends included in the current balance. The term includes, in addition, any proceeds of deposit life insurance added to the account by

reason of the death of the party whose net contribution is in question;

(7) Party means a person who, by the terms of the account, has a present right, subject to request, to payment from a multiple-party account. A P.O.D. payee or beneficiary of a trust account is a party only after the account becomes payable to him or her by reason of his or her surviving the original payee or trustee. Unless the context otherwise requires, it includes a guardian, conservator, personal representative, or assignee, including an attaching creditor, of a party. It also includes a person identified as a trustee of an account for another whether or not a beneficiary is named, but it does not include any named beneficiary unless he or she has a present right of withdrawal;

(8) Payment of sums on deposit includes withdrawal, payment on check or other directive of a party, and any pledge of sums on deposit by a party and any setoff, or reduction or other disposition of all or part of an account pursuant to a pledge;

(9) Proof of death includes a death certificate or record or report which is prima facie proof of death under section 30-2207;

(10) P.O.D. account means an account payable on request to one person during lifetime and on his or her death to one or more P.O.D. payees, or to one or more persons during their lifetimes and on the death of all of them to one or more P.O.D. payees;

(11) P.O.D. payee means a person designated on a P.O.D. account as one to whom the account is payable on request after the death of one or more persons;

(12) Request means a proper request for withdrawal, or a check or order for payment, which complies with all conditions of the account, including special requirements concerning necessary signatures and regulations of the financial institution; but if the financial institution conditions withdrawal or payment on advance notice, for purposes of this part the request for withdrawal or payment is treated as immediately effective and a notice of intent to withdraw is treated as a request for withdrawal;

(13) Sums on deposit means the balance payable on a multiple-party account including interest, dividends, and in addition any deposit life insurance proceeds added to the account by reason of the death of a party;

(14) Trust account means an account in the name of one or more parties as trustee for one or more beneficiaries where the relationship is established by the form of the account and the deposit agreement with the financial institution and there is no subject of the trust other than the sums on deposit in the account; it is not essential that payment to the beneficiary be mentioned in the deposit agreement. A trust account does not include a regular trust account under a testamentary trust or a trust agreement which has significance apart from the account, or a fiduciary account arising from a fiduciary relation such as attorney-client;

(15) Withdrawal includes payment to a third person pursuant to check or other directive of a party.

Sec. 195. That section 31-735, Revised Statutes Supplement, 1992, be amended to read as follows:

31-735. (1) On the first Tuesday after the second Monday in September which is at least fifteen months after the judgment of the district court creating a sanitary and improvement district and on the first Tuesday after the second Monday in September each two years thereafter, the board of trustees shall cause a special election to be held, at which election a board of trustees of five in number shall be elected. Each member elected to the board of trustees shall be elected to a term of two years and shall hold office until such member's successor is elected and qualified. Any person desiring to file for the office of trustee may file for such office with the election commissioner, or county clerk in counties having no election commissioner, of the county in which the greater proportion in area of the district is located not later than fifty days before the election. No filing fee shall be required. A person filing for the office of trustee to be elected at the election held four years after the first election of trustees and each election thereafter shall designate whether he or she is a candidate for election by the resident owners of such district or whether he or she is a candidate for election by all of the owners of real estate located in the district. The name of such candidate shall appear on only one ballot. The name of a person may be written in and voted for as a candidate for the office of trustee, and such write-in candidate may be elected to the office of trustee. Such trustees shall be owners of real estate located in the district. Notice of the date of the election shall be mailed by the clerk of the district not later than sixty-five days prior to the election to each person who is entitled to vote at the election for trustees whose property ownership or lease giving a right to vote is of record on the records of the register of deeds as of a date designated by the election commissioner or county clerk, which date shall be not more than seventy-five days prior to the election.

(2) For any sanitary and improvement district, persons whose ownership or right to vote becomes of record or is received after the date specified pursuant to subsection (1) of this section may vote upon establishing their right to vote to the satisfaction of the election board. At the first election and at the election held two years after the first election, any person may cast one vote for each trustee for each acre of unplatted land or fraction thereof and one vote for each platted lot which he or she may own in the district. At the election held four years after the first election of trustees, two members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district and three members shall be elected by all of the owners of real estate located in the district pursuant to this section. Every resident property owner may cast one vote for a candidate for each office of trustee to be filled by election of resident property owners only. Such resident property owners may also each cast one vote for each acre of unplatted land or fraction thereof and for each platted lot owned within the district for a candidate for each office of trustee to be filled by election of all property owners. For each office of trustee to be filled by election of

all property owners of the district, every legal property owner not resident within such sanitary and improvement district may cast one vote for each acre of unplatted land or fraction thereof and one vote for each platted lot which he or she owns in the district. At the election held eight years after the first election of trustees, three members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district and two members shall be elected by all of the owners of real estate located in the district pursuant to this section, except that if more than fifty percent of the homes in any sanitary and improvement district are used as a second, seasonal, or recreational residence, the owners of such property shall be considered legal property owners resident within such district for purposes of electing trustees, and at the election held six years after the first election of trustees, three members of the board of trustees shall be elected by the legal property owners resident within such sanitary and improvement district and two members shall be elected by all of the owners of real estate located in the district pursuant to this section. If there are not any legal property owners resident within such district, the five members shall be elected by the legal property owners of all property within such district as provided in this section. Any corporation, whether public, private, or municipal, owning any land or lot in the district may vote at such election the same as an individual. For purposes of voting for trustees, each condominium apartment under a condominium property regime established prior to January 1, 1984, under the Condominium Property Act or established after January 1, 1984, under the Nebraska Condominium Act shall be deemed to be a platted lot and the lessee or the owner of the lessee's interest, under any lease for an initial term of not less than twenty years which requires the lessee to pay taxes and special assessments levied on the leased property, shall be deemed to be the owner of the property so leased and entitled to cast the vote of such property. When ownership of a platted lot or unplatted land is held jointly by two or more persons, whether as joint tenants, tenants in common, limited partners, members of a limited liability company, or any other form of joint ownership, only one person shall be entitled to cast the vote of such property. The executor, administrator, guardian, or trustee of any person or estate interested shall have the right to vote. No corporation, estate, or trust shall be deemed to be a resident owner for purposes of voting for trustees. Should two or more persons or officials claim the right to vote on the same tract, the election board shall determine the party entitled to vote. Such board shall select one of their number chairperson and one of their number clerk. In case of a vacancy on such board, the remaining trustees shall fill the vacancy on such board until the next election.

(3) The election commissioner or county clerk shall hold any election required by subsection (1) of this section by sealed mail ballot by notifying the board of trustees on or before July 1 of a given year. The election commissioner or county clerk shall, at least twenty days prior to the election, mail a ballot and return envelope to each person who is entitled to vote at the election and whose property ownership or lease

giving a right to vote is of record with the register of deeds as of the date designated by the election commissioner or county clerk, which date shall not be more than seventy-five days prior to the election. The ballot and return envelope shall include: (a) The names and addresses of the candidates; (b) room for write-in candidates; and (c) instructions on how to vote and return the ballot. Such ballots shall be returned to the election commissioner or county clerk no later than 10 a.m. of the first Thursday following the election.

Sec. 196. That section 31-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

31-902. For ~~the purpose~~ purposes of ~~sections 31-901 to 31-933~~ the County Drainage Act, unless the context otherwise requires:

(1) County board shall mean either the board of supervisors; when the county is organized under the township form; or county commissioners when the county is organized under the commissioner system;

(2) Ditch shall include all road ditches and any ditch whether constructed privately or by a public agency, the water from which drains into road ditches, drainage ditches, or watercourses;

(3) Lots and lands shall include all real estate and any interest therein whether owned by individuals, partnerships, limited liability companies, or corporations, whether federal, state, county, school or municipal, all public roads, and all railroad right-of-way;

(4) Watercourse shall mean any stream, creek, draw, or natural depression through which normal drainage or storm water is accustomed to flow;

(5) Owner shall mean the person, persons, or organization shown by the records of the register of deeds or county clerk of any county to be the record titleholder to any lot or land; and

(6) Cleaning shall mean removing of trees, brush, obstructions, and sediment or the widening, deepening, straightening, or altering the channel of any ditch or watercourse.

Sec. 197. That section 32-1604, Revised Statutes Supplement, 1992, be amended to read as follows:

32-1604. (1) Any candidate for Governor, Lieutenant Governor, State Treasurer, Secretary of State, Attorney General, Auditor of Public Accounts, the Legislature, the Public Service Commission, the Board of Regents of the University of Nebraska, or the State Board of Education may qualify for public funds to be used for the election period if he or she limits his or her campaign spending for the election period and meets the other requirements prescribed in this section.

(2) To qualify for public funds for the election period, a candidate for Governor shall limit his or her spending for the election period to one million five hundred thousand dollars, a candidate for Lieutenant Governor, State Treasurer, Secretary of State, Attorney General, or Auditor of Public Accounts shall limit his or her spending for the election period to one hundred fifty thousand dollars, and a candidate for the Legislature, the Public Service Commission, the Board of Regents

of the University of Nebraska, or the State Board of Education shall limit his or her spending for the election period to fifty thousand dollars.

(3) Each candidate desiring to receive public funds pursuant to this section shall (a) beginning January 1 of the election period, raise an amount equal to at least twenty-five percent of the spending limitation for the office from persons who are residents of Nebraska, (b) file with the Nebraska Accountability and Disclosure Commission, on the day he or she files for the office, a written declaration of intent to abide by the spending limitations prior to raising such funds, and (c) file with the commission, on the day he or she files for the office, a written statement by which he or she agrees to personally act as a guarantor for the lawful use of such funds and agrees to be held personally liable to the State of Nebraska for any such funds not repaid to the state as required by law. Money raised prior to filing the declaration required by subdivision (b) of this subsection shall not count toward the qualifying amount established in subdivision (a) of this subsection. At least sixty-five percent of the qualifying amount established in subdivision (a) of this subsection shall be received from individuals. For purposes of this section, a business, corporation, partnership, limited liability company, or association shall be deemed a resident if it has an office in this state and transacts business in this state.

(4) Any candidate who does not file the written declaration pursuant to subdivision (3)(b) of this section shall file with the commission, on the day he or she files for the office, an affidavit which shall constitute his or her written declaration of intent not to abide by the spending limitations of this section and shall include a reasonable estimate of his or her maximum expenditures as defined in sections 32-1603 and 49-1419 for the election period. The estimate of expenditures may be amended up to sixty days prior to the general election by filing a subsequent affidavit.

Sec. 198. That section 36-213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

36-213. Every assignment of the wages or earnings of the head of a family; and every contract or agreement intending or purporting to have the effect of such assignment; shall be void unless such contract, agreement, assignment, or transfer ~~shall be~~ is executed and acknowledged by both husband and wife in the same manner that conveyances of real estate are required to be signed and acknowledged by the laws of this state; and shall be limited to a percentage of the wages of the head of household not greater than that subject to the operation of attachment, execution, and garnishee process as provided in section 25-1558. Nothing ; ~~PROVIDED, that nothing~~ contained herein in this section shall be construed to void payroll deductions by the employer if such wages or earnings so deducted are for (1) purchase of government bonds, (2) contributions to charity, or (3) payment of employee organization dues, of group or individual insurance premiums, of pension assessments, to credit unions, or for a savings plan, in accordance with a written order of the employee which has been accepted by the employer. Every such assignment shall specify the employer who will pay the wages

that are the subject of the assignment, and the assignment shall be valid only as to wages due from the employer or employers so specified. It shall be unlawful for any person, firm, corporation, company, partnership, limited liability company, or business institution to cause any employer; by any such void assignment; or by notice of any such void assignment; to withhold the payment of any wages due the head of a family.

Sec. 199. That section 36-213.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

36-213.01. Any person, firm, corporation, company, partnership, limited liability company, or business institution that ~~shall violate any of the provisions of~~ violates section 36-213; shall (1) be liable to the party injured through such violation thereof for the amount of the wages withheld by any employer under such void assignment; or notice of such void assignment, with all costs and expenses and a reasonable attorney's fee; to be recovered in any court of competent jurisdiction in this state, and (2) be guilty of a Class IV misdemeanor.

Sec. 200. That section 36-702, Revised Statutes Supplement, 1992, be amended to read as follows:

36-702. As used in the Uniform Fraudulent Transfer Act:

(1) Affiliate means:

(i) a person who directly or indirectly owns, controls, or holds with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities,

(A) as a fiduciary or agent without sole discretionary power to vote the securities; or

(B) solely to secure a debt, if the person has not exercised the power to vote;

(ii) a corporation twenty percent or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by the debtor or a person who directly or indirectly owns, controls, or holds, with power to vote, twenty percent or more of the outstanding voting securities of the debtor, other than a person who holds the securities,

(A) as a fiduciary or agent without sole power to vote the securities; or

(B) solely to secure a debt, if the person has not in fact exercised the power to vote;

(iii) a person whose business is operated by the debtor under a lease or other agreement, or a person substantially all of whose assets are controlled by the debtor; or

(iv) a person who operates the debtor's business under a lease or other agreement or controls substantially all of the debtor's assets.

(2) Asset means property of a debtor, but the term does not include:

(i) property to the extent it is encumbered by a valid lien;

(ii) property to the extent it is generally exempt under nonbankruptcy law; or

(iii) an interest in property held in tenancy by the entireties

to the extent it is not subject to process by a creditor holding a claim against only one tenant.

(3) Claim means a right to payment, whether or not the right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.

(4) Creditor means a person who has a claim.

(5) Debt means liability on a claim.

(6) Debtor means a person who is liable on a claim.

(7) Insider includes:

(i) if the debtor is an individual,

(A) a relative of the debtor or of a general partner of the debtor;

(B) a partnership in which the debtor is a general partner;

(C) a general partner in a partnership described in subdivision (B) of this subdivision; ~~or~~

(D) a limited liability company of which the debtor is a member; or

(E) a corporation of which the debtor is a director, officer, or person in control;

(ii) if the debtor is a corporation,

(A) a director of the debtor;

(B) an officer of the debtor;

(C) a person in control of the debtor;

(D) a partnership in which the debtor is a general partner;

(E) a general partner in a partnership described in subdivision (D) of this subdivision; ~~or~~

(F) a limited liability company of which the debtor is a member; or

(G) a relative of a general partner, director, officer, or person in control of the debtor;

(iii) if the debtor is a partnership,

(A) a general partner in the debtor;

(B) a relative of a general partner in, a general partner of, or a person in control of the debtor;

(C) another partnership in which the debtor is a general partner;

(D) a general partner in a partnership described in subdivision (C) of this subdivision; ~~or~~

(E) a limited liability company of which the debtor is a member; or

(F) a person in control of the debtor;

(iv) if the debtor is a limited liability company,

(A) a member of the debtor;

(B) a relative of a member of the debtor;

(C) a person in control of the debtor;

(D) another limited liability company of which the debtor is a member;

(E) a partnership in which the debtor is a general partner;

(F) a general partner in a partnership described in subdivision (E) of this subdivision; or

(G) a corporation of which the debtor is a director, officer, or person in control;

(v) an affiliate, or an insider of an affiliate as if the affiliate were the debtor; and

(vi) a managing agent of the debtor.

(8) Lien means a charge against or an interest in property to secure payment of a debt or performance of an obligation, and includes a security interest created by agreement, a judicial lien obtained by legal or equitable process or proceedings, a common-law lien, or a statutory lien.

(9) Person means an individual, partnership, limited liability company, corporation, association, organization, government or governmental subdivision or agency, business trust, estate, trust, or any other legal or commercial entity.

(10) Property means anything that may be the subject of ownership.

(11) Relative means an individual related by consanguinity within the third degree as determined by the common law, a spouse, or an individual related to a spouse within the third degree as so determined, and includes an individual in an adoptive relationship within the third degree.

(12) Transfer means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with an asset or an interest in an asset, and includes payment of money, release, lease, and creation of a lien or other encumbrance.

(13) Valid lien means a lien that is effective against the holder of a judicial lien subsequently obtained by legal or equitable process or proceedings.

Sec. 201. That section 37-101, Revised Statutes Supplement, 1992, be amended to read as follows:

37-101. For purposes of the Game Law, unless the context otherwise requires:

(1) Captive propagation shall mean to hold live raptors in a controlled environment that is intensively manipulated by humans for the purpose of producing raptors of selected species and that has boundaries designed to prevent raptors, eggs, or gametes of the selected species from entering or leaving the controlled environment;

(2) Commission shall mean the Game and Parks Commission;

(3) Falconry shall mean the sport of taking quarry by means of a trained raptor;

(4) Fur harvesting shall mean taking or attempting to take any fur-bearing animal by any means as prescribed by rules and regulations of the commission;

(5) Fur-bearing animals shall mean all beaver, martens,

minks; except mutation minks, muskrats, raccoons, opossums, and otters;

(6) Game shall mean all game fish, bullfrogs, snapping turtles, tiger salamanders, mussels, crows, game animals, fur-bearing animals, game birds, and all other birds and creatures protected by the Game Law;

(7) Game animals shall mean all antelope, cottontail rabbits, deer, elk, mountain sheep, and squirrels;

(8) Game birds shall mean coots, cranes, curlew, doves, ducks, geese, grouse, partridges, pheasants, plovers, prairie chickens, quail, rails, snipes, swans, woodcocks, wild turkeys, and all migratory waterfowl;

(9) Game fish shall mean all fish except buffalo, carp, gar, quillback, sucker, and gizzard shad;

(10) Hunt shall mean to take, pursue, shoot, kill, capture, collect, or attempt to take, pursue, shoot, capture, collect, or kill;

(11) Officer shall mean every person authorized to enforce the Game Law;

(12) Person, owner, proprietor, grantee, lessee, and licensee shall mean and include individuals, partnerships, limited liability companies, associations, corporations, and municipalities;

(13) Raptor shall mean any bird of the Falconiformes or Strigiformes, except the golden and bald eagles;

(14) Raw fur shall mean the green pelts of any fur-bearing animal except commercially reared mutations;

(15) Trapping shall mean to take or attempt to take any fur-bearing animal by any snare, steel-jawed spring trap, or box trap; and

(16) Upland game birds shall mean all species and subspecies of quail, partridges, pheasants, wild turkeys, and grouse, including prairie chickens, on which an open season is in effect.

Sec. 202. That section 37-431, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-431. As used in the Nongame and Endangered Species Conservation Act, unless the context otherwise requires:

(1) Conservation shall mean the use of all methods and procedures for the purpose of increasing the number of individuals within species and populations of wildlife up to the optimum carrying capacity of their habitat and maintaining such levels. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, transplantation, regulated taking, and the periodic or total protection of species or populations;

(2) Commission shall mean the Game and Parks Commission;

(3) Ecosystem shall mean a system of living organisms and their environment, each influencing the existence of the other and both necessary for the maintenance of life;

(4) Endangered species shall mean any species of wildlife or

wild plants whose continued existence as a viable component of the wild fauna or flora of the state is determined to be in jeopardy or any species of wildlife or wild plants which meets the criteria of the Endangered Species Act;

(5) Endangered Species Act shall mean the Endangered Species Act of 1973, 87 Stat. 884;

(6) Extirpated species shall mean any species of wildlife or wild plants which no longer exists or is found in Nebraska;

(7) Nongame species shall mean any species of mollusks, crustaceans, or vertebrate wildlife not legally classified as game, game bird, game animal, game fish, furbearer, threatened species, or endangered species by statute or regulation of this state;

(8) Optimum carrying capacity shall mean that point at which a given habitat can support healthy populations of wildlife species, having regard to the total ecosystem without diminishing the ability of the habitat to continue that function;

(9) Person shall mean an individual, corporation, partnership, limited liability company, trust, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the federal government, any state or political subdivision thereof, or any foreign government;

(10) Species shall mean any subspecies of wildlife or wild plants and any other group of wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature;

(11) Take shall mean to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect;

(12) Threatened species shall mean any species of wild fauna or flora which appears likely to become endangered, either by determination of the commission or by criteria provided by the Endangered Species Act; and

(13) Wildlife shall mean any member of any nondomesticated species of the animal kingdom, whether reared in captivity or not, including any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate and includes any part, product, egg, or offspring thereof or the dead body or parts thereof.

Sec. 203. That section 37-719, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-719. It shall be unlawful for any person, partnership, limited liability company, association, or corporation to import into the state or possess the animal known as the San Juan rabbit or any other species of wild vertebrate animal declared by the Game and Parks Commission following public hearing to constitute a serious threat to economic or ecologic conditions, ~~except~~ ~~;~~ ~~PROVIDED~~, that the Game and Parks Commission may authorize by specific written permit the acquisition and possession of such species for educational or scientific purposes. It shall also be unlawful to release to the wild any nonnative bird, nonnative mammal, reptile, or amphibian or to release any nonnative fish to streams and other waters or to release in public waters in

this state any fish not taken therefrom; without written authorization from the Game and Parks Commission. Any person, partnership, limited liability company, association, or corporation violating ~~the provisions of~~ this section shall be guilty of a Class IV misdemeanor.

Sec. 204. That section 37-1207, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

37-1207. Person shall mean an individual, partnership, limited liability company, firm, corporation, association, or other entity.

Sec. 205. That section 39-602, Revised Statutes Supplement, 1992, be amended to read as follows:

39-602. For purposes of Chapter 39, unless the context otherwise requires:

(1) Acceleration or deceleration lane shall mean a supplementary lane of a highway lane for traffic, which adjoins the traveled lanes of a highway and connects an approach or exit road with such highway;

(2) Alley shall mean a highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic;

(3) Approach or exit road shall mean any highway or ramp designed and used solely for the purpose of providing ingress or egress to or from an interchange or rest area of a highway. An approach road shall begin at the point where it intersects with any highway not a part of the highway for which such approach road provides access and shall terminate at the point where it merges with an acceleration lane of a highway. An exit road shall begin at the point where it intersects with a deceleration lane of a highway and shall terminate at the point where it intersects any highway not a part of a highway from which the exit road provides egress;

(4) Arterial street shall mean any United States or state-numbered route, controlled-access highway, or other major radial or circumferential highway designated by local authorities within their respective jurisdictions as part of a major arterial system of highways;

(5) Authorized emergency vehicle shall mean such fire department vehicles, police vehicles, and ambulances as are publicly owned and such other publicly or privately owned vehicles as are designated by the director;

(6) Bicycle shall mean every device propelled solely by human power, upon which any person may ride, and having two tandem wheels either of which is more than fourteen inches in diameter;

(7) Bus shall mean every motor vehicle designed for carrying more than ten passengers and used for the transportation of persons and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation;

(8) Business district shall mean the territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including, but not limited to, hotels, banks, office buildings, railroad

stations, or public buildings which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of a highway;

(9) Cabin trailer shall mean a trailer or semitrailer which is designed, constructed, and equipped as a dwelling place, living abode, or sleeping place, whether used for such purposes or instead permanently or temporarily for the advertising, sale, display, or promotion of merchandise or services, or for any other commercial purpose except transportation of property for hire or transportation of property for distribution by a private carrier. Cabin trailer shall not mean a trailer or semitrailer which is permanently attached to real estate. There shall be two classes of cabin trailers:

(a) Travel trailer which shall include cabin trailers not more than eight feet in width nor more than forty feet in length from front hitch to rear bumper; and

(b) Camping trailer which shall include cabin trailers eight feet or less in width and forty feet or less in length and adjusted mechanically smaller for towing;

(10) Cancellation of operator's license shall mean the annulment or termination by formal action of the department of a person's license because of some error or defect in such license or because the licensee is no longer entitled to such license, and without prejudice to application for a new license which may be made at any time after such cancellation;

(11) Compressed gas shall mean any gaseous or vaporous material or mixture confined in a container under either an absolute pressure exceeding forty pounds per square inch at seventy degrees Fahrenheit or an absolute pressure exceeding one hundred four pounds per square inch at one hundred thirty degrees Fahrenheit, or both, or any liquid flammable material having a Reid Vapor Pressure exceeding forty pounds per square inch absolute at one hundred degrees Fahrenheit;

(12) Controlled-access highway shall mean every highway or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or egress from except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway;

(13) Crosswalk shall mean:

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of such roadway measured from the curbs or, in the absence of curbs, from the edge of the roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly designated by competent authority and marked for pedestrian crossing by lines, signs, or other devices;

(14) Corrosive liquid shall mean an acid, alkaline caustic liquid, or other liquid which, when in contact with living tissue, will cause severe damage to such tissue by chemical action or will materially damage or destroy other materials by chemical action or which is liable to cause

fire when in contact with organic matter or with certain chemicals;

(15) Daytime shall mean that period of time between sunrise and sunset;

(16) Dealer shall mean any person engaged in the business of buying, selling, or exchanging vehicles who has an established place of business for such purpose in this state and to whom current dealer registration license plates have been issued by the department;

(17) Department shall mean the Department of Motor Vehicles;

(18) Director shall mean the Director of Motor Vehicles;

(19) Divided highway shall mean a highway with separated roadways for traffic in opposite directions;

(20) Drag race shall mean the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other or the operation of one or more vehicles over a common selected course, each starting at the same point and proceeding to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit;

(21) Driver's or operator's license shall have the meaning found in section 60-474;

(22) Essential parts shall mean all integral and body parts of a vehicle of a type required to be registered for operation on the highways of this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type, or mode of operation;

(23) Established place of business shall mean the place actually occupied either continuously or at regular periods by a dealer or manufacturer where his or her books and records are kept and a large share of his or her business is transacted;

(24) Explosives shall mean any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion, that is, with substantially instantaneous release of gas and heat, including, but not limited to, gunpowder, blasting powder, high explosives, and blasting caps, but shall not include liquid petroleum or organic products, chemical or mineral solvents, or other substances commonly classified as flammable liquids or solids;

(25) Farm tractor shall mean every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry;

(26) Final conviction shall mean the final determination of all questions of fact and of law;

(27) Flammable liquid shall mean any liquid which gives off flammable vapors at or below a temperature of eighty degrees Fahrenheit as determined by flash point from Tagliabue's Open Cup Tester as used for test of burning oils;

(28) Flammable solid shall mean any solid substance other than an explosive which is liable, under conditions incident to

transportation, to ignite through friction, absorption, or moisture, spontaneous chemical changes, or as a result of retained heat from manufacturing or processing;

(29) Freeway shall mean a divided arterial highway designed primarily for through traffic with full control of access and with grade separations at all intersecting road crossings, including all interchanges and approach and exit roads thereto;

(30) Full control of access shall mean that the right of owners or occupants of abutting land or other persons to access or view is fully controlled by public authority having jurisdiction and that such control is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings or intersections at grade or direct private driveway connections;

(31) Grade separation shall mean a crossing of two highways at different levels;

(32) Highway shall mean the entire width between the boundary limits of any street, road, avenue, boulevard, or way which is publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(33) Home state shall mean the state which has issued and has the power to grant, suspend, or revoke the privilege to operate a motor vehicle on the public way;

(34) Identifying number shall mean the numbers, and letters if any, on a vehicle designated by the department for the purpose of identifying such vehicle;

(35) Implement of husbandry shall mean every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry and in either case usually primarily used off of any highway;

(36) Interchange shall mean a grade-separated intersection with one or more turning roadways for travel between any of the highways radiating from and forming part of such intersection;

(37) Intersection shall mean the area embraced within the prolongation or connection of the lateral curb lines or, if there are no lateral curb lines, then the lateral boundary lines of the roadways of two or more highways which join one another at, or approximately at, right angles or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. When a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection. The junction of an alley with a highway shall not constitute an intersection;

(38) Laned roadway shall mean a roadway which is divided into two or more clearly marked lanes for vehicular traffic;

(39) License or license to operate a motor vehicle shall

mean the privilege granted by this state to operate a motor vehicle;

(40) Licensing authority shall mean the Department of Motor Vehicles;

(41) Lienholder shall mean a person holding a security interest in a vehicle;

(42) Local authority shall mean every county, municipal, and other local board or body having power to enact laws, rules, or regulations relating to traffic under the Constitution and laws of this state and generally including the directors of state institutions, the Game and Parks Commission, and all natural resources districts with regard to roads not a part of the state highway system and within the limits of such institution, of an area under Game and Parks Commission control, or of an area owned or leased by a natural resources district, but outside the limits of any incorporated city or village;

(43) Mail shall mean to deposit in the United States mail properly addressed and with postage prepaid;

(44) Maintenance shall mean the act, operation, or continuous process of repair, reconstruction, or preservation of the whole or any part of any highway, including surface, shoulders, roadsides, traffic-control devices, structures, waterways, and drainage facilities, for the purpose of keeping it at or near or improving upon its original standard of usefulness and safety;

(45) Manual shall mean the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways;

(46) Manufacturer shall mean any person who engages in the business of constructing or assembling vehicles of a type required to be registered for operation on the highways of this state at an established place of business in this state;

(47) Median shall mean that part of a divided highway, such as a physical barrier or clearly indicated dividing section or space, so constructed as to impede vehicular traffic across or within such barrier, section, or space or to divide such highway into two roadways for vehicular travel in opposite directions;

(48) Median crossover shall mean a connection between roadways of a divided highway the use of which may permit a vehicle to reverse its direction by continuously moving forward;

(49) Median opening shall mean a gap in a median provided for crossing and turning traffic;

(50) Metal tire shall mean every tire the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material;

(51) Minibike shall mean a two-wheel motor vehicle which has a total wheel and tire diameter of less than fourteen inches or an engine-rated capacity of less than forty-five cubic centimeters displacement or any other two-wheel motor vehicle primarily designed by the manufacturer thereof for off-road use only. Minibikes, their owners, and their operators shall be exempt from the requirements of Chapter 60, articles 1, 3, 4, and 5;

(52) Moped shall mean a bicycle with fully operative pedals for propulsion by human power, an automatic transmission, and a motor with a cylinder capacity not exceeding fifty cubic centimeters which produces no more than two brake horsepower and is capable of propelling the bicycle at a maximum design speed of no more than thirty miles per hour on level ground. mopeds, their owners, and their operators shall be subject to Chapter 60, article 4, but shall be exempt from the requirements of Chapter 60, articles 1, 3, and 5;

(53) Motor vehicle shall mean every self-propelled land vehicle, not operated upon rails, except mopeds and self-propelled invalid chairs;

(54) Motorcycle shall mean every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground but excluding a tractor;

(55) Motor-driven cycle shall mean every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower as measured at the drive shaft, mopeds, and every bicycle with motor attached;

(56) Nighttime shall mean that period of time between sunset and sunrise;

(57) Nonresident shall mean every person who is not a resident of this state;

(58) Nonresident's operating privilege shall mean the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state;

(59) Occupant protection system shall mean a system utilizing a lap belt, a shoulder belt, or any combination of belts installed in a motor vehicle which (a) restrains drivers and passengers and (b) conforms to Federal Motor Vehicle Safety Standards, 49 C.F.R. 571.208, 571.209, and 571.210 or to the federal motor vehicle safety standards for passenger restraint systems applicable for the motor vehicle's model year;

(60) Operator or driver shall mean any person who drives or is in actual physical control of a vehicle;

(61) Owner shall mean a person, other than a lienholder, having the property in or title to a vehicle, including a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excluding a lessee under a lease not intended as security;

(62) Oxidizing material shall mean any substance such as chlorate, permanganate, peroxide, or a nitrate that yields oxygen readily to stimulate the combustion of organic matter;

(63) Park or parking shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;

(64) Passenger car shall mean any motor vehicle, except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used primarily for the transportation of persons;

(65) Pedestrian shall mean any person afoot;

(66) Period of insufficient light shall mean nighttime and all other times when atmospheric conditions are such that there is insufficient light to reveal a person or an object of comparable size or larger at a distance of one thousand feet;

(67) Person shall mean every natural person, firm, partnership, limited liability company, association, or corporation;

(68) Pneumatic tire shall mean any tire designed so that compressed air supports the load of the wheel;

(69) Poisonous substance shall mean any liquid or gas of such nature that a very small amount of the gas, or vapor of the liquid, mixed with air is dangerous to life or any liquid or solid substance that upon contact with fire or when exposed to air gives off dangerous or intensely irritating fumes or substances which are chiefly dangerous by external or internal contact with the body;

(70) Police officer shall mean any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations;

(71) Private road or driveway shall mean every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons;

(72) Radioactive material shall mean any substance which spontaneously emits radiation capable of penetrating and severely damaging living tissue and undeveloped photographic film. Fissile radioactive materials shall mean those which are classified according to controls needed for nuclear criticality safety;

(73) Racing shall mean the use of one or more vehicles in an attempt to outgain, outdistance, or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes;

(74) Railroad shall mean a carrier of persons or property upon cars, other than streetcars, operated upon stationary rails;

(75) Railroad sign or signal shall mean any sign, signal, or device erected by authority of a public body or official or by a railroad intended to give notice of the presence of railroad tracks or the approach of a railroad train;

(76) Railroad train shall mean a steam engine or an engine with an electric or other motor, with or without cars coupled thereto, operated upon rails;

(77) Reconstructed vehicle shall mean any vehicle of a type required to be registered for operation on the highways of this state materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used;

(78) Recreational trailer shall mean a vehicular unit without motive power primarily designed for transporting a motorboat as defined in section 37-1204 or vessel as defined in section 37-1203;

(79) Registration shall mean the registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles;

(80) Residential district shall mean the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business;

(81) Revocation of operator's license shall mean the termination by a court of competent jurisdiction or by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways, which termination shall not be subject to renewal or restoration, except that an employment driving permit may be issued as provided by sections 60-4,129 and 60-4,130. Application for a new license may be presented and acted upon by the department after the expiration of the applicable period of time prescribed in the statute providing for revocation;

(82) Right-of-way shall mean the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed, and proximity as to give rise to danger of collision unless one grants precedence to the other;

(83) Road tractor shall mean any motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or as any part of the weight of a vehicle or load so drawn;

(84) Roadway shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. If a highway includes two or more separate roadways, the term roadway shall refer to any such roadway separately but not to all such roadways collectively;

(85) Safety glass shall mean any product which is composed of glass or similar material which will withstand discoloration caused by exposure to sunlight or abnormal temperature over an extended period of time and which is so manufactured, fabricated, or treated as substantially to prevent or reduce, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons when the glass is struck or broken;

(86) Safety zone shall mean an area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as such area;

(87) School bus shall mean any motor vehicle that complies with the color and identification requirements as provided in the laws of this state or set forth in the most recent edition of Minimum Standards for School Buses, produced and sponsored by the National Commission on Safety Education of the National Education Association, and is used to transport children to or from school or in connection with school

activities, but not including buses operated by common carriers in urban transportation of school children;

(88) Security agreement shall mean a written agreement which reserves or creates a security interest;

(89) Security interest shall mean an equitable title or property right in a vehicle reserved or created by agreement and which secures payment or performance of an obligation, including the interest of a lessor under a lease intended as security, and which is perfected when it is valid against third parties generally, subject only to specific statutory exceptions;

(90) Semitrailer shall mean any vehicle, with or without motive power, designed to carry persons or property and to be drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle;

(91) Separation structure shall mean that part of any bridge or road which is directly overhead of the roadway of any part of a highway;

(92) Shoulder shall mean that part of the highway contiguous to the roadway and designed for the accommodation of stopped vehicles, for emergency use, and for lateral support of the base and surface courses of the roadway;

(93) Sidewalk shall mean that portion of a highway between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians;

(94) Sidewalk space shall mean that portion of a street between the curb line and the adjacent property line;

(95) Snowmobile shall mean a self-propelled motor vehicle designed to travel on snow or ice or a natural terrain steered by wheels, skis, or runners and propelled by a belt-driven track with or without steel cleats;

(96) Solid tire shall mean every tire of rubber or other resilient material which does not depend upon compressed air or metal for the support of the load of the wheel to which it attaches;

(97) Special mobile equipment shall mean any vehicle not designed or used primarily for transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck-tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and drag lines, self-propelled cranes, and earthmoving equipment, but not including cabin trailers, dump trucks, truck-mounted transit mixers, cranes, or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached;

(98) Specially constructed vehicle shall mean any vehicle of a type required to be registered for operation on the highways of this state and not originally constructed under a distinctive name, make, model, or

type by a generally recognized manufacturer of vehicles and not materially altered from its original construction;

(99) Stand or standing shall mean the halting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in receiving or discharging passengers;

(100) State shall mean a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of Canada;

(101) Stop, when required, shall mean a complete cessation of movement;

(102) Stop or stopping, when prohibited, shall mean any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device;

(103) Suspension of operator's license shall mean the temporary withdrawal by a court of competent jurisdiction or by formal action of the department of a person's license or privilege to operate a motor vehicle on the public highways for a period specifically designated by the court or department. An employment driving permit shall be issued following suspension as provided in sections 60-4,129 and 60-4,130;

(104) Through highway shall mean every highway or portion thereof on which vehicular traffic is given preferential right-of-way and at the entrances to which vehicular traffic from intersecting highways is required by law to yield such right-of-way to vehicles on such highway in obedience to a stop sign, yield sign, or other traffic-control device, when such sign or device is erected as provided by law;

(105) Traffic shall mean pedestrians, ridden or herded animals, and vehicles and other conveyances either singly or together while using any highway for purposes of travel;

(106) Traffic-control device shall mean any sign, signal, marking, or other device not inconsistent with the Nebraska Rules of the Road placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic;

(107) Traffic-control signal shall mean any signal, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed;

(108) Traffic infraction shall mean the violation of any provision of the Nebraska Rules of the Road or of any law, ordinance, order, rule, or regulation regulating traffic which is not otherwise declared to be a misdemeanor or a felony and which shall be a civil offense;

(109) Trailer shall mean any vehicle, with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(110) Transporter shall mean any person who engages in the business of delivering vehicles of a type required to be registered for operation on the highways of this state from a manufacturing, assembling, or distributing plant to dealers or sales agents of a manufacturer;

(111) Truck shall mean any motor vehicle designed, used, or maintained primarily for the transportation of property;

(112) Truck-tractor shall mean any motor vehicle designed and primarily used for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;

(113) Urban district shall mean the territory contiguous to and including any street which is built up with structures devoted to business, industry, or dwelling houses situated at intervals of less than one hundred feet for a distance of a quarter of a mile or more;

(114) Vehicle shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a highway except devices moved solely by human power or used exclusively upon stationary rails or tracks; and

(115) Visible, as used in reference to advertising signs, displays, or devices, shall mean the message or advertising content of such sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read.

Sec. 206. That section 39-6,161, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,161. It shall be unlawful for any person, firm, corporation, association, partnership, or limited liability company, or eopartnership, either foreign or domestic, to operate; or cause to be operated on the highways in the State of Nebraska; motor trucks or buses having a gross weight of the truck and load exceeding twelve thousand pounds; unless such truck or bus is equipped with power brakes, auxiliary brakes, or some standard booster brake equipment. Any person, firm, corporation, eopartnership, or association, partnership, or limited liability company who shall violate any of the provisions of violates this section shall be guilty of a Class V misdemeanor.

Sec. 207. That section 39-6,188, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-6,188. Any person, firm, association, partnership, limited liability company, or corporation who shall violate that violates any of the provisions of sections 39-6,177 to 39-6,179, 60-301 to 60-343, or 79-488; or any person, firm, association, partnership, limited liability company, corporation, or agent thereof, who shall drive or move, cause or knowingly permit that drives, moves, causes, or knowingly permits to be moved on any public highway, road, street, or alley; any vehicle or vehicles which exceed the limitations as to width, length, height, or weight; as provided in sections 39-6,177 to 39-6,179; or the safety features provided in section 79-488 for which penalty is not elsewhere provided; shall be guilty of a Class III misdemeanor. It shall be the duty of the sheriffs of the several counties and other police officials to enforce the provisions of sections 39-6,123, 39-6,125, 39-6,126, 39-6,177 to 39-6,187, 60-301 to 60-343, and 79-488.

Sec. 208. That section 39-807, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

39-807. It is hereby declared unlawful for any person or persons whether for himself, herself, or themselves or as the agent, servant, or employee of any firm, association, corporation, partnership, or limited liability company ~~or copartnership~~ to post, paste, paint, tack, fasten or otherwise secure to any bridge or culvert in the State of Nebraska, any bills, billboards, signs, posters, advertisements, or banners of any matter or description whatsoever, whether of paper, metal, wood, or ~~any~~ other composition. Nothing ; ~~PROVIDED, that nothing~~ in this section shall be construed to prohibit road markers designating a particular highway being painted on bridges and culverts.

Sec. 209. That section 39-808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-808. If any person or persons, whether for himself, herself, or themselves or as the agent, servant, or employee of any firm, association, corporation, partnership, or limited liability company ~~violates or copartnership, shall be found violating any of the provisions of~~ section 39-807, such person or persons shall be guilty of a Class V misdemeanor.

Sec. 210. That section 39-892, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-892. ~~As used within~~ For purposes of sections 39-891 to 39-8,122, unless the context otherwise requires:

(1) Approach shall mean that portion of any interstate bridge which allows the highway access to the bridge structure. It shall be measured along the centerline of the highway from the end of the bridge structure to the nearest right-of-way line of the closest street or road where traffic may leave the highway to avoid crossing the bridge, but ; ~~PROVIDED, that~~ in no event shall such approach exceed a distance of one mile. The term shall be construed to include all embankments, fills, grades, supports, drainage facilities, and appurtenances necessary therefor;

(2) Appurtenances shall include, but not be limited to, sidewalks, storm sewers, guardrails, handrails, steps, curb or grate inlets, fire plugs, retaining walls, lighting fixtures, and all other items of a similar nature which the department shall deem necessary for the proper operation of any interstate bridge or for the safety and convenience of the traveling public;

(3) Boundary line bridge shall mean any bridge upon which no toll, fee, or other consideration is charged for passage thereon; and which connects the state highway systems of the State of Nebraska and an adjoining state in the same manner as an interstate bridge. Such bridges shall be composed of right-of-way, bridge structure, approaches, and road; in the same manner as an interstate bridge; but shall be distinguished from an interstate bridge in that no part of such bridge shall be a part of the state highway system, the title to such bridge being vested in a person other than the State of Nebraska, or the State of Nebraska and an adjoining state jointly. Any boundary line bridge purchased or acquired by the department, or the department and an adjoining state jointly, and added to the state highway system shall be deemed an

interstate bridge;

(4) Boundary line toll bridge shall mean any boundary line bridge upon which a fee, toll, or other consideration is charged traffic for the use thereof. Any boundary line toll bridge purchased or acquired by the department, or by the department and an adjoining state jointly, and added to the state highway system shall be deemed an interstate bridge;

(5) Bridge structure shall mean the superstructure and substructure of any interstate bridge having a span of not less than twenty feet between undercopings of extreme end abutments, or extreme ends of openings of multiple boxes, when measured along the centerline of the highway thereon, and shall be construed to include the supports therefor and all appurtenances deemed necessary by the department;

(6) Construction shall mean the erection, fabrication, or alteration of the whole or any part of any interstate bridge. ~~Alteration, as used herein,~~ shall be construed to be the performance of construction whereby by which the form or design of any interstate bridge is changed or modified;

(7) Department shall mean the Department of Roads of the State of Nebraska;

(8) Emergency shall include, but not be limited to, acts of God, invasion, enemy attack, war, flood, fire, storm, traffic accidents, or other actions of similar nature which usually occur suddenly and cause, or threaten to cause, damage requiring immediate attention;

(9) Expressway shall be defined in the manner provided by subdivision (9) of section 39-1302;

(10) Freeway shall be defined in the manner provided by subdivision (10) of section 39-1302;

(11) Highway shall mean a road, street, expressway, or freeway, including the entire area within the right-of-way, which has been designated a part of the state highway system;

(12) Interstate bridge shall mean the right-of-way, approaches, bridge structure, and highway necessary to form a passageway for highway traffic over the boundary line of the State of Nebraska from a point within the State of Nebraska to a point within an adjoining state for the purpose of spanning any obstruction or obstructions which would otherwise hinder the free and safe flow of traffic between such points, such bridge being a part of the state highway system with title vested in the State of Nebraska; or in the State of Nebraska and an adjoining state jointly;

(13) Interstate bridge purposes shall include, but not be limited to, the applicable provisions of subdivisions (a) to (l) of subsection (2) of section 39-1320;

(14) Maintenance shall mean the act, operation, or continuous process of repair, reconstruction, or preservation of the whole or any part of any interstate bridge for the purpose of keeping it at or near its original standard of usefulness, and shall include the performance of traffic services for the safety and convenience of the traveling public. ~~Reconstruction, as used herein,~~ shall be construed to be the repairing or

replacing of any part of any interstate bridge without changing or modifying the form or design of such bridge;

(15) Person shall include bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations;

(16) Right-of-way shall mean land, property, or interest therein, usually in a strip, acquired for or devoted to an interstate bridge;

(17) State highway system shall mean the highways within the State of Nebraska as shown on the map provided for in section 39-1311, and as defined by subdivision (25) of section 39-1302;

(18) Street shall be defined in the manner provided by subdivision (26) of section 39-1302;

(19) Title shall mean the evidence of right to property or the right itself; and

(20) Traffic services shall mean the operation of an interstate bridge facility, and the services incidental thereto, to provide for the safe and convenient flow of traffic over such bridge. Such services shall include, but not be limited to, erection of snow fence, snow and ice removal, painting, repairing, and replacing signs, guardrails, traffic signals, lighting standards, pavement stripes and markings, adding conventional traffic-control devices, furnishing power for road lighting and traffic-control devices, and replacement of parts.

Sec. 211. That section 39-1302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1302. As used in sections 39-1301 to 39-1362, unless the context otherwise requires:

(1) Abandon shall mean to reject all or part of the department's rights and responsibilities relating to all or part of a fragment, section, or route on the state highway system;

(2) Alley shall mean an established passageway for vehicles and pedestrians affording a secondary means of access in the rear to properties abutting on a street or highway;

(3) Arterial highway shall mean a highway primarily for through traffic, usually on a continuous route;

(4) Channel shall mean a natural or artificial watercourse;

(5) Connecting link shall mean the roads, streets, and highways designated as part of the state highway system and which are within the corporate limits of any city or village in this state;

(6) Controlled-access facility shall mean a highway or street especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right or easement of access, light, air, or view by reason of the fact that their property abuts upon such controlled-access facility or for any other reason. Such highways or streets may be freeways or they may be parkways;

(7) Department shall mean the Department of Roads of the State of Nebraska;

(8) Easement shall mean a right acquired by public

authority to use or control property for a designated highway purpose;

(9) Expressway shall mean a divided arterial highway for through traffic with full or partial control of access and generally with grade separations at intersections;

(10) Freeway shall mean an expressway with full control of access;

(11) Frontage road shall mean a local street or road auxiliary to an arterial highway for service to abutting property and adjacent areas and for control of access;

(12) Highway shall mean a road or street, including the entire area within the right-of-way, which has been designated a part of the state highway system;

(13) Map shall mean a drawing or other illustration or a series of drawings or illustrations which may be considered together to complete a representation;

(14) Mileage shall mean the aggregate distance in miles without counting double mileage where there are one-way or divided roads, streets, or highways;

(15) Parking lane shall mean an auxiliary lane primarily for the parking of vehicles;

(16) Parkway shall mean an arterial highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development;

(17) Person shall include bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations;

(18) Relinquish shall mean to surrender all or part of the rights and responsibilities relating to all or part of a fragment, section, or route on the state highway system to a political or governmental subdivision or public corporation of Nebraska;

(19) Right of access shall mean the rights of ingress and egress to or from a road, street, or highway, and the rights of owners or occupants of land abutting a road, street, or highway or other persons to a way or means of approach, light, air, or view;

(20) Right-of-way shall mean land, property, or interest therein, usually in a strip, acquired for or devoted to a road, street, or highway;

(21) Road shall mean a public way for the purposes of vehicular travel, including the entire area within the right-of-way. A road designated as part of the state highway system may be called a highway, while a road in an urban area may be called a street;

(22) Roadside shall mean the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside;

(23) Roadway shall mean the portion of a highway, including shoulders, for vehicular use;

(24) State highway purposes shall have the meaning set forth in subsection (2) of section 39-1320;

(25) State highway system shall mean the roads, streets, and highways shown on the map provided for in section 39-1311, as forming a group of highway transportation lines for which the department shall be the primary authority. The state highway system shall include, but not be limited to, rights-of-way, connecting links, drainage facilities, and the bridges, appurtenances, easements, and structures used in conjunction with such roads, streets, and highways;

(26) Street shall mean a public way for the purposes of vehicular travel in a city or village and shall include the entire area within the right-of-way;

(27) Structure shall mean anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location;

(28) Title shall mean the evidence of a person's right to property or the right itself;

(29) Traveled way shall mean the portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes;

(30) Written instrument shall mean a deed or any other document that states a contract, agreement, gift, or transfer of property;

(31) Displaced person shall mean any individual, family, business or farm operation which moves from real property acquired for state highway purposes or for a federal-aid highway;

(32) Individual shall mean a person who is not a member of a family;

(33) Family shall mean two or more persons living together in the same dwelling unit who are related to each other by blood, marriage, adoption, or legal guardianship;

(34) Business shall mean any lawful activity conducted primarily for the purchase and resale, manufacture, processing, or marketing of products, commodities, or other personal property, or for the sale of services to the public, or by a nonprofit corporation;

(35) Farm operation shall mean any activity conducted primarily for the production of one or more agricultural products or commodities for sale and home use; and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support;

(36) Federal-aid primary roads shall mean roads, streets, and highways, whether a part of the state highway system, county road systems, or city streets, which have been designated as federal-aid primary roads by the department and approved by the Secretary of Transportation of the United States, and shown on the maps provided for in section 39-1311;

(37) Commercial activity shall mean those activities generally recognized as commercial by zoning authorities in this state, and industrial activity shall mean those activities generally recognized as industrial by zoning authorities in this state, except that none of the following shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) General agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three months of the year;

(d) Activities conducted in a building principally used as a residence;

(e) Railroad tracks and minor sidings; and

(f) Activities more than six hundred sixty feet from the nearest edge of the right-of-way of the road or highway;

(38) Unzoned commercial or industrial area for purposes of control of outdoor advertising shall mean all areas within six hundred sixty feet of the nearest edge of the right-of-way of the interstate and federal-aid primary systems which are not zoned by state or local law, regulation, or ordinance and on which there is located one or more permanent structures devoted to a business or industrial activity or on which a commercial or industrial activity is conducted, whether or not a permanent structure is located thereon, the area between such activity and the highway, and the area along the highway extending outward six hundred feet from and beyond each edge of such activity, and in the case of the primary system may include the unzoned lands on both sides of such road or highway to the extent of the same dimensions; **PROVIDED**, if those lands on the opposite side of the highway are not deemed scenic or having aesthetic value as determined by the department. In determining such an area, measurements shall be made from the furthest or outermost edges of the regularly used area of the commercial or industrial activity, structures, normal points of ingress and egress, parking lots, and storage and processing areas constituting an integral part of such commercial or industrial activity;

(39) Zoned commercial or industrial areas shall mean those areas within six hundred sixty feet of the nearest edge of the right-of-way of the National System of Interstate and Defense Highways and all federal-aid primary roads, zoned by state or local authorities for industrial or commercial activities; and

(40) Visible, as used in sections 39-1320.06, 39-1320.07, and 39-1320.09 in reference to advertising signs, displays, or devices, shall mean the message or advertising content of such sign, display, or device is capable of being seen without visual aid by a person of normal visual acuity. A sign shall be considered visible even though the message or advertising content may be seen but not read.

Sec. 212. That section 39-1638, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1638. ~~As used in sections 39-1638 to 39-1655~~ For purposes of the Rural Road Improvement District Act, unless the context otherwise requires:

(1) Persons shall include individuals, corporations, ~~and~~ partnerships, and limited liability companies;

(2) Board, board of county commissioners, or board of

county supervisors shall mean the governing body of the county; and

(3) Improvement shall mean the completed road and all work incidental thereto.

Sec. 213. That section 39-1816, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-1816. In order to promote safety, power is conferred upon the county board of any county to prohibit or restrict the parking of motor vehicles on the right-of-way of county highways outside the corporate limits of any city or village; and to erect and maintain appropriate signs thereon giving notice of no parking or restricted parking.

Any person, firm, association, ~~co~~partnership partnership, limited liability company, or corporation ~~who shall park~~ which parks a motor vehicle in the right-of-way of a county highway where no parking or restricted parking signs have been erected or maintained, in violation of such signs, shall be guilty of a Class V misdemeanor. Whenever any peace officer ~~shall find~~ finds a vehicle parked in violation of this section, he ~~or she~~ may move such vehicle at the expense of the registered owner or request the driver or person in charge of such vehicle to move such vehicle.

If any motor vehicle is found upon the right-of-way of any county highway in violation of this section and the identity of the driver cannot be determined, the owner or person in whose name such vehicle is registered shall be prima facie responsible for such violation.

Sec. 214. That section 39-2602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

39-2602. For purposes of sections 39-2601 to 39-2612, unless the context otherwise requires:

(1) Junk shall mean old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material;

(2) Automobile graveyard shall mean any establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts;

(3) Junkyard shall mean an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of an automobile graveyard, and includes garbage dumps and sanitary fills;

(4) Interstate highway shall mean a portion of the National System of Interstate and Defense Highways;

(5) Primary highway shall mean the federal-aid primary system of highways and state highways;

(6) Main-traveled way shall mean the traveled portion of an interstate or primary highway on which through traffic is carried and, in the case of a divided highway, the traveled portion of each of the separated roadways;

(7) Person shall mean any natural person, partnership,

limited liability company, association, corporation, or governmental subdivision; and

(8) Department shall mean the Department of Roads.

Sec. 215. That section 42-364.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

42-364.11. For the purposes of sections 42-364.01 to 42-364.14, unless the context otherwise requires:

(1) Earnings shall mean compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and shall include any periodic payments pursuant to a pension or a retirement program and any payments made to an independent contractor for services performed;

(2) Disposable earnings shall mean that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld, excepting the amounts required to be deducted and withheld pursuant to sections 42-354, 42-357, and 42-363 to 42-365 or those provisions allowing garnishment, attachment, or execution;

(3) Employer shall mean any person, partnership, limited liability company, firm, corporation, association, political subdivision, or department of the state in possession of earnings;

(4) Employee shall mean any person who is compensated by an employer for services performed, regardless of how such compensation is denominated, and shall include independent contractors who receive compensation for services;

(5) Workweek shall mean any seven consecutive days during which a parent-employee performs work, provides services, or sells goods or services for an employer; and

(6) Pay period shall mean that regular interval of time, whether it be daily, weekly, biweekly, semimonthly, monthly, or some other regular interval, for which an employer pays earnings to a parent-employee.

Sec. 216. That section 43-1503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

43-1503. For the purposes of the Nebraska Indian Child Welfare Act, except as may be specifically provided otherwise, the term:

(1) Child custody proceeding shall mean and include:

(a) Foster care placement which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

(b) Termination of parental rights which shall mean any action resulting in the termination of the parent-child relationship;

(c) Preadoptive placement which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive

placement; and

(d) Adoptive placement which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents;

(2) Extended family member shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) Indian means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a regional corporation defined in section 7 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1606;

(4) Indian child means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) Indian child's tribe means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b) in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) Indian custodian means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) Indian organization means any group, association, partnership, limited liability company, corporation, or other legal entity owned or controlled by Indians; or a majority of whose members are Indians;

(8) Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act, as amended, 42 U.S.C. 1602(c);

(9) Parent means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father when paternity has not been acknowledged or established;

(10) Reservation means Indian country as defined in 18 U.S.C. 1151 and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a

restriction by the United States against alienation;

(11) Secretary means the Secretary of the Interior; and

(12) Tribal court means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

Sec. 217. That section 43-1709, Revised Statutes Supplement, 1992, be amended to read as follows:

43-1709. Employer or other payor shall mean any person, partnership, limited liability company, firm, corporation, association, political subdivision, or department or agency of the state or federal government in possession of income and shall include an obligor if he or she is self-employed.

Sec. 218. That section 43-2702, Revised Statutes Supplement, 1992, be amended to read as follows:

43-2702. For purposes of the Nebraska Uniform Transfers to Minors Act:

(1) Adult means an individual who has attained the age of twenty-one years;

(2) Benefit plan means an employer's plan for the benefit of an employee, member, or partner;

(3) Broker means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person's own account or for the account of others;

(4) Conservator means a person appointed or qualified by a court to act as general, limited, or temporary guardian of a minor's property or a person legally authorized to perform substantially the same functions;

(5) Court means the county court;

(6) Custodial property means (a) any interest in property transferred to a custodian under the Nebraska Uniform Transfers to Minors Act and (b) the income from and proceeds of that interest in property;

(7) Custodian means a person so designated under section 43-2710 or a successor or substitute custodian designated under section 43-2719;

(8) Financial institution means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law;

(9) Legal representative means an individual's personal representative or conservator;

(10) Member of the minor's family means the minor's parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the whole or half blood or by adoption;

(11) Minor means an individual who has not attained the age of twenty-one years;

(12) Person means an individual, corporation, limited

liability company, organization, or other legal entity;

(13) Personal representative means an executor, administrator, successor personal representative, or special administrator of a decedent's estate or a person legally authorized to perform substantially the same functions;

(14) State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States;

(15) Transfer means a transaction that creates custodial property under section 43-2710;

(16) Transferor means a person who makes a transfer under the Nebraska Uniform Transfers to Minors Act; and

(17) Trust company means a financial institution, corporation, limited liability company, or other legal entity, authorized to exercise general trust powers.

Sec. 219. That section 44-208.08, Revised Statutes Supplement, 1992, be amended to read as follows:

44-208.08. Any person, firm, association, partnership, limited liability company, or corporation which solicits any subscriptions for stock or any application for membership or for a policy or sells any surplus note for any insurer in process of organization in violation of law shall be personally liable to any person from whom he or she may have solicited such subscription for stock or application or to whom he or she may have sold such surplus note in an amount equal to that paid by the purchaser or applicant. Suit to recover the same may be brought by such purchasers or applicants, jointly or severally, in any court of competent jurisdiction in this state.

Sec. 220. That section 44-217, Revised Statutes Supplement, 1992, be amended to read as follows:

44-217. Each person, corporation, association, ~~or~~ partnership, or limited liability company owning a policy or policies of insurance issued by a mutual company or an assessment association shall be a member thereof and have one vote.

Sec. 221. That section 44-377, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-377. To render an insurance policy effective by one partner, member, or part owner applicable to the interest of ~~his copartner or other another partner, member, or~~ owner, it is necessary that the terms of the policy should be such as are applicable to the joint, ~~or~~ partnership, or limited liability company interest.

Sec. 222. That section 44-392, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-392. It shall hereafter be unlawful for any bank, trust company, investment company, bank affiliate, ~~or~~ corporation, partnership, limited liability company, or association, owned or controlled by any bank located in any incorporated city of this state having a population of two hundred thousand or over, to sell, write, or solicit any kind or form of insurance, either directly or indirectly, through any officer,

agent, employee, or representative thereof. Any such bank, trust company, investment company, bank affiliate, ~~or~~ corporation, partnership, limited liability company, or association, owned or controlled by any bank, or any officer, agent, employee, or representative thereof, who ~~shall violate the provisions of~~ violates this section shall be guilty of a Class II misdemeanor.

Sec. 223. That section 44-3,107.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,107.01. As used in sections 44-3,107 to 44-3,114, unless the context otherwise requires:

(1) Person shall mean any individual, corporation, partnership, limited liability company, association, joint-stock company, business trust, unincorporated organization, or holding company whose primary purpose is owning or controlling insurance companies. A holding company shall be presumed to have as its primary purpose the owning or controlling of insurance companies if fifty-one percent or more of the assets of the holding company consist of the equity securities of one or more stock insurers, one of which is a domestic stock insurer; and

(2) Officer shall mean president, vice president, treasurer, actuary, secretary, controller, or any other person who performs the company functions corresponding to those performed by any of the foregoing officers.

Sec. 224. That section 44-404, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-404. This section shall apply to only those policies and contracts issued on or after the operative date defined in section 44-407.07 (the Standard Nonforfeiture Law for Life Insurance), except as otherwise provided in subdivision (b) of this section for all annuities and pure endowments purchased on or after the operative date of such subdivision (b) under group annuity and pure endowment contracts issued prior to such operative date defined in section 44-407.07.

(a) Except as otherwise provided in subdivisions (b) and (c) of this section, the minimum standard for the valuation of all such policies and contracts issued prior to August 30, 1981, shall be that provided by the laws in effect immediately prior to such date. Except as otherwise provided in subdivisions (b) and (c) of this section, the minimum standard for the valuation of all such policies and contracts shall be the Commissioners Reserve Valuation Methods defined in subdivisions (d), (e), and (h) of this section; five percent interest for group annuity and pure endowment contracts and three and one-half percent interest for all other such policies and contracts, or in the cases of policies and contracts, other than annuity and pure endowment contracts, issued on or after September 2, 1973, four percent interest for such policies issued prior to August 24, 1979, and four and one-half percent interest for such policies issued on or after August 24, 1979; and the following tables: (i) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies,--the Commissioners 1941 Standard Ordinary Mortality Table for such policies

issued prior to the operative date of section 44-407.08 (Standard Nonforfeiture Law for Life Insurance), the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date and prior to the operative date of section 44-407.24; PROVIDED, that for any category of such policies issued on female risks, all modified net premiums and present values referred to in this section; may be calculated according to an age not more than six years younger than the actual age of the insured; and for such policies on or after the operative date of section 44-407.24 (a) the Commissioners 1980 Standard Ordinary Mortality Table, or (b) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors, or (c) any ordinary mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such policies; (ii) for all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies,--the 1941 Standard Industrial Mortality Table for such policies issued prior to the operative date of section 44-407.09 (Standard Nonforfeiture Law for Life Insurance), and for such policies issued on or after such operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such policies; (iii) for individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,--the 1937 Standard Annuity Mortality Table, or at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the Department of Insurance; (iv) for group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies,--the Group Annuity Mortality Table for 1951, any modification of such table approved by the Department of Insurance, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts; (v) for total and permanent disability benefits in or supplementary to ordinary policies or contracts--for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit, or any tables of disablement rates and termination rates, adopted after 1980 by the National Association of Insurance Commissioners, that are approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such policies; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies issued prior to January 1, 1961, the Class (3) Disability

Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies; (vi) for accidental death benefits in or supplementary to policies--for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table; for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies; and (vii) for group life insurance, life insurance issued on the substandard basis and other special benefits--such tables as may be approved by the Department of Insurance.

(b) Except as provided in subdivision (c) of this section, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subdivision, as defined herein, and for all annuities and pure endowments purchased on or after such operative date under group annuity and pure endowment contracts, shall be the Commissioners Reserve Valuation Methods defined in subdivisions (d) and (e) of this section and the following tables and interest rates:

(i) For individual annuity and pure endowment contracts issued prior to August 24, 1979, excluding any disability and accidental death benefits in such contracts--the 1971 Individual Annuity Mortality Table, or any modification of this table approved by the Department of Insurance, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts;

(ii) For individual single premium immediate annuity contracts issued on or after August 24, 1979, excluding any disability and accidental death benefits in such contracts--the 1971 Individual Annuity Mortality Table, or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and seven and one-half percent interest;

(iii) For individual annuity and pure endowment contracts issued on or after August 24, 1979, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in such contracts--the 1971 Individual Annuity Table, or any individual annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such contracts, or any modification of these tables approved by the director, and five and one-half percent interest for single premium deferred annuity and pure endowment contracts and four and one-half percent interest for all other such individual annuity and pure

endowment contracts;

(iv) For all annuities and pure endowments purchased prior to August 24, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts--the 1971 Group Annuity Mortality Table, or any modification of this table approved by the Department of Insurance, and six percent interest; and

(v) For all annuities and pure endowments purchased on or after August 24, 1979, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts--the 1971 Group Annuity Mortality Table, or any group annuity mortality table, adopted after 1980 by the National Association of Insurance Commissioners, that is approved by regulation promulgated by the Department of Insurance for use in determining the minimum standard of valuation for such annuities and pure endowments, or any modification of these tables approved by the director, and seven and one-half percent interest.

(c) The calendar year statutory valuation interest rates as defined in this subdivision shall be used in determining the minimum standard for the valuation of all life insurance policies issued in a particular calendar year, on or after the operative date of section 44-407.02; all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1 of the calendar year next following August 30, 1981; all annuities and pure endowments purchased in a particular calendar year on or after January 1 of the calendar year next following August 30, 1981, under group annuity and pure endowment contracts; and the net increase, if any, in a particular calendar year after January 1 of the calendar year next following August 30, 1981, in amounts held under guaranteed interest contracts.

The calendar year statutory valuation interest rates shall be determined as provided in this paragraph and the results rounded to the nearer one-quarter of one percent: (i) For life insurance, the calendar year statutory valuation interest rate shall be equal to the sum of (a) three percent; (b) the weighting factor defined in this subdivision multiplied by the difference between (1) the lesser of the reference interest rate defined in this subdivision and nine percent, and (2) three percent; and (c) one-half the weighting factor defined in this subdivision multiplied by the difference between (1) the greater of the reference interest rate defined in this subdivision and nine percent, and (2) nine percent. (ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options, the calendar year statutory valuation interest rates shall be equal to the sum of (a) three percent and (b) the weighting factor defined in this subdivision multiplied by the difference between (1) the reference interest rate defined in this subdivision and (2) three percent. (iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue-year basis, except as stated in (ii)

above, the formula for life insurance in (i) above shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years, and the formula for single premium immediate annuities in (ii) above shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less. (iv) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities in (ii) above shall apply. (v) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities in (ii) above shall apply. (vi) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for such life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined for 1979) and shall be determined for each subsequent calendar year regardless of when section 44-407.24 becomes operative.

The weighting factors referred to in the formulas stated in this subdivision are as follows: (i) For life insurance, with a guarantee duration of ten years or less, the weighting factor is .50; with a guarantee duration of more than ten years but not more than twenty years, the weighting factor is .45; and with a guarantee duration of more than twenty years, the weighting factor is .35. For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy. (ii) The weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is .80. (iii) The weighting factors for other annuities and for guaranteed interest contracts, except as stated in (ii) above, are as follows, according to plan type as defined in this subdivision: (a) For annuities and guaranteed interest contracts valued on an issue-year basis with a guarantee duration of five years or less, the weighting factor is .80 for plan type A, .60 for plan type B, and .50 for plan type C; with a guarantee duration of more than five years but not more than ten years, the weighting factor is .75 for plan type A, .60 for plan type B, and .50 for plan type C; with a guarantee duration of more than ten years but not more than twenty years, the weighting factor is .65 for plan type A, .50 for plan type B, and .45 for plan type C; and with more than twenty years guarantee duration the weighting factor is .45 for plan type A, .35 for plan type B, and .35 for plan type C. (b)

For annuities and guaranteed interest contracts valued on an issue-year basis (other than those with no cash settlement options) which do not guarantee interest on considerations received more than one year after issue or purchase, the weighting factors are the factors shown in (iii)(a) above increased by .05 for all plan types. (c) For annuities and guaranteed interest contracts valued on a change in fund basis, the weighting factors are the factors as computed in (iii)(b) above increased by .10 for plan type A, increased by .20 for plan type B, and not increased for plan type C. (d) For annuities and guaranteed interest contracts valued on a change in fund basis which do not guarantee interest rates on considerations received more than twelve months beyond the valuation date, the weighting factors are the factors as computed in (iii)(c) above increased by .05 for all plan types. For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of twenty years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

Plan types used in this subdivision are defined as follows: Under plan type A, at any time a policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, without such an adjustment but in installments over five years or more, or as an immediate life annuity, or no withdrawal may be permitted. Under plan type B, before expiration of the interest rate guarantee, a policyholder may withdraw funds only with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company or without such an adjustment but in installments over five years or more, or no withdrawal may be permitted. At the end of interest rate guarantee, funds may be withdrawn without such adjustment in a single sum or installments over less than five years. Under plan type C, a policyholder may withdraw funds before expiration of the interest rate guarantee in a single sum or installments over less than five years either without an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue-year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue-year basis. As used in this subdivision, an issue-year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed

interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

The reference interest rate referred to in this subdivision shall be defined as follows: (i) For all life insurance, the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year next preceding the year of issue, of the reference monthly average as defined in this subdivision. (ii) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or year of purchase, of the reference monthly average as defined in this subdivision. (iii) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (ii) above, with guarantee duration in excess of ten years the lesser of the average over a period of thirty-six months and the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the reference monthly average as defined in this subdivision. (iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in (ii) above, with guarantee duration of ten years or less, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the reference monthly average as defined in this subdivision. (v) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of twelve months, ending on June 30 of the calendar year of issue or purchase, of the reference monthly average as defined in this subdivision. (vi) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in (ii) above, the average over a period of twelve months, ending on June 30 of the calendar year of the change in the fund, of the reference monthly average as defined in this subdivision.

The reference monthly average referred to in this subdivision shall mean a monthly bond yield average which is published by a national financial statistical organization, recognized by the National Association of Insurance Commissioners, in current general use in the insurance industry, and designated by the Director of Insurance. In the event that the National Association of Insurance Commissioners determines that an alternative method for determination of the reference interest rate is necessary, an alternative method, which is adopted by the National Association of Insurance Commissioners and approved by

regulation promulgated by the Department of Insurance, may be substituted.

(d) Except as otherwise provided in subdivisions (e) and (h) of this section, reserves according to the Commissioners Reserve Valuation Methods, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (i) over (ii), as follows: (i) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; PROVIDED, that such net level annual premium shall not exceed the net level annual premium on the nineteen year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy; (ii) a net one year term premium for such benefits provided for in the first policy year.

For any life insurance policy issued on or after January 1 of the fourth calendar year commencing after August 30, 1981, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the reserve according to the Commissioners Reserve Valuation Methods as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than such excess premium shall, except as otherwise provided in subdivision (h) of this section, be the greater of the reserve as of such policy anniversary calculated as described in the preceding paragraph, and the reserve as of such policy anniversary calculated as described in the preceding paragraph but with (i) the net level annual premium calculated as described in the preceding paragraph being reduced by fifteen percent of the amount of such excess first year premium, (ii) all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date, (iii) the policy being assumed to mature on such date as an endowment, and (iv) the cash surrender value provided on such date being considered as an endowment benefit. In making the above comparison the mortality and interest bases stated in subdivisions (a) and (c) of this section shall be used.

Reserves according to the Commissioners Reserve Valuation Methods for (i) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (ii) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership, limited liability company, or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended, (iii) disability and accidental death benefits in all policies and contracts, and (iv) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of this subdivision, except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(e) This subdivision shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including a partnership, limited liability company, or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as now or hereafter amended.

Reserves according to the commissioners annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in such contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by such contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of such contract, that become payable prior to the end of such respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in such contracts for determining guaranteed benefits. The valuation considerations shall be the portions of the respective gross considerations applied under the terms of such contracts to determine nonforfeiture values.

(f) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the methods set forth in subdivisions (d), (e), (h), and (i) of this section and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(g) Reserves for all policies and contracts issued prior to August 30, 1981, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for

all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

Reserves for any category of policies, contracts, or benefits as established by the Department of Insurance, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(h) If in any contract year the gross premium charged by any life insurance company on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract, but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subdivision are those standards stated in subdivisions (a) and (c) of this section.

For any life insurance policy issued on or after January 1 of the fourth calendar year commencing after August 30, 1981, for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for such excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than such excess premium, the foregoing provisions of this subdivision shall be applied as if the method actually used in calculating the reserve for such policy were the method described in subdivision (d) of this section, ignoring the second paragraph of subdivision (d) of this section. The minimum reserve at each policy anniversary of such a policy shall be the greater of the minimum reserve calculated in accordance with subdivision (d) of this section, including the second paragraph of that subdivision, and the minimum reserve calculated in accordance with this subdivision.

(i) In the case of any plan of life insurance which provides for future premium determination, the amounts of which are to be determined by the insurance company based on their estimates of future experience, or in the case of any plan of life insurance or annuity which is of such a nature that the minimum reserves cannot be determined by the methods described in subdivisions (d), (e), and (h) of this section, the reserves which are held under any such plan must (i) be appropriate in relation to the benefits and the pattern of premiums for that plan, and (ii) be computed by a method which is consistent with the principles of this

section as determined by regulations promulgated by the Department of Insurance.

Sec. 225. That section 44-407.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-407.10. (1) Sections 44-407.10 to 44-407.23 shall be known as the Standard Nonforfeiture Law for Individual Deferred Annuities.

(2) ~~Sections 44-407.10 to 44-407.22~~ Such sections shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership, limited liability company, or sole proprietorship, ~~or~~ by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

Sec. 226. That section 44-759, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-759. Sickness and accident insurance on a franchise plan is hereby declared to be that form of sickness and accident insurance issued to (1) five or more employees of any corporation, partnership, limited liability company, ~~or~~ individual employer, ~~or any~~ governmental corporation; ~~or~~ agency or department thereof; or (2) ten or more members of any trade or professional association or of a labor union or of any other association having had an active existence for at least two years where such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance, ~~if~~ ~~where~~ such persons, with or without their dependents, are issued the same form of an individual policy varying only as to amounts and kinds of coverage applied for by such persons.

Sec. 227. That section 44-760, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-760. Group sickness and accident insurance is hereby declared to be that form of sickness and accident insurance covering groups of persons, with or without their dependents, and issued upon the following basis:

(1) Under a policy issued to an employer, who shall be deemed the policyholder, insuring at least five employees of such employer, for the benefit of persons other than the employer. The term employees as used herein shall be deemed to include the officers, managers, and employees of the employer, the partners; if the employer is a partnership, the members if the employer is a limited liability company, the officers, managers, and employees of subsidiary or affiliated corporations of a ~~corporation~~ corporate employer, and the individual proprietors, partners, and employees of individuals and firms, the business

of which is controlled by the insured employer through stock ownership, contract, or otherwise. The policy may provide that the term employees shall include retired employees. The term employer as used herein may be deemed to include any municipal or governmental corporation, unit, agency, or department thereof and the proper officers, as such, of any unincorporated municipality or department thereof, as well as private individuals, partnerships, limited liability companies, and corporations.

(2) Under a policy issued to an association, including a labor union, which ~~shall have~~ has a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least twenty-five members of the association for the benefit of persons other than the association or its officers or trustees, as such.

(3) Under a policy issued to any other substantially similar group which, in the discretion of the director, may be subject to the issuance of a group sickness and accident policy or contract.

(4) Under a policy issued to any other group as authorized by Chapter 44, article 16.

Sec. 228. That section 44-766, Revised Statutes Supplement, 1992, be amended to read as follows:

44-766. Any person, partnership, limited liability company, or corporation who or which willfully delivers or issues for delivery in this state any policy of sickness and accident insurance on a form which ~~shall have~~ has been disapproved by the Director of Insurance or willfully violates any provision of sections 44-709 to 44-767 or an order of the director made in accordance with sections 44-710 to 44-767 shall forfeit to the people of the state a sum not to exceed one hundred dollars for each such violation which may be recovered by a civil action. The director may after notice and hearing revoke the license of an insurer or agent for any such willful violation. Any person aggrieved by any action of the Director of Insurance may appeal. ~~The ; and the~~ appeal shall be in accordance with the Administrative Procedure Act.

Sec. 229. That section 44-1201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1201. Individuals, partnerships, limited liability companies, and corporations in this state, hereby designated as subscribers, are hereby authorized to exchange reciprocal or interinsurance contracts with each other or with individuals, partnerships, limited liability companies, and corporations of other states and countries; providing indemnity among themselves from any loss which may be insured against under other provisions of the laws excepting life insurance.

Sec. 230. That section 44-1523, Revised Statutes Supplement, 1992, be amended to read as follows:

44-1523. For purposes of the Unfair Insurance Trade Practices Act:

- (1) Department shall mean the Department of Insurance;
- (2) Director shall mean the Director of Insurance;

(3) Insured shall mean the party named on a policy or certificate as the individual with legal rights to the benefits provided by such policy or certificate;

(4) Insurer shall mean any person, reciprocal exchange, interinsurer, Lloyds-type insurer, fraternal benefit society, and other legal entity engaged in the business of insurance, including agents, brokers, insurance consultants, adjusters, and third-party administrators. Insurer shall also mean health maintenance organizations, prepaid limited health service organizations, and dental, optometric, and other similar health service plans. For purposes of the act, all such insurers shall be deemed to be engaged in the business of insurance;

(5) Person shall mean any natural or artificial entity, including, but not limited to, an individual, partnership, limited liability company, association, trust, or corporation; and

(6) Policy or certificate shall include any contract of insurance, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any insurer.

Sec. 231. That section 44-1525, Revised Statutes Supplement, 1992, be amended to read as follows:

44-1525. Any of the following acts or practices, if committed in violation of section 44-1524, shall be unfair trade practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

(a) Misrepresents the benefits, advantages, conditions, or terms of any policy;

(b) Misrepresents the dividends or share of the surplus to be received on any policy;

(c) Makes any false or misleading statements as to the dividends or share of surplus previously paid on any policy;

(d) Misleads as to or misrepresents the financial condition of any insurer or the legal reserve system upon which any life insurer operates;

(e) Uses any name or title of any policy or class of policies which misrepresents the true nature thereof;

(f) Misrepresents for the purpose of inducing or tending to induce the purchase, lapse, forfeiture, exchange, conversion, or surrender of any policy, including intentionally misquotes any premium rate;

(g) Misrepresents for the purpose of effecting a pledge or assignment of or effecting a loan against any policy; or

(h) Misrepresents any policy as being shares of stock;

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement

containing any assertion, representation, or statement with respect to the business of insurance or with respect to any insurer in the conduct of his or her insurance business which is untrue, deceptive, or misleading;

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false or maliciously critical of or derogatory to the financial condition of any insurer and which is calculated to injure such insurer;

(4) Entering into any agreement to commit or by any concerted action committing any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of or monopoly in the business of insurance;

(5)(a) Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or knowingly causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of an insurer; or

(b) Knowingly making any false entry of a material fact in any book, report, or statement of any insurer or knowingly omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer;

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance;

(7)(a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any life insurance policy or annuity or in the dividends or other benefits payable thereon or in any other of the terms and conditions of such policy or annuity;

(b) Making or permitting any unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, or rates charged for any sickness and accident insurance policy or in the benefits payable thereunder, in any of the terms or conditions of such policy, or in any other manner, except that this subdivision shall not limit the negotiation of preferred provider policies and contracts under sections 44-4101 to 44-4113;

(c) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk unless:

(i) The refusal, cancellation, or limitation is for a business purpose which is not a pretext for unfair discrimination; or

(ii) The refusal, cancellation, or limitation is required by

law, rule, or regulation;

(d) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property unless:

(i) The refusal, cancellation, or limitation is for a business purpose which is not a pretext for unfair discrimination; or

(ii) The refusal, cancellation, or limitation is required by law, rule, or regulation;

(e) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual solely because of the sex or marital status of the individual. This subdivision shall not prohibit an insurer from taking marital status into account for the purpose of defining individuals eligible for dependent benefits; or

(f) Terminating or modifying coverage or refusing to issue or refusing to renew any property or casualty insurance policy solely because the applicant or insured or any employee of the applicant or insured is mentally or physically impaired unless:

(i) The termination, modification, or refusal is for a business purpose which is not a pretext for unfair discrimination; or

(ii) The termination, modification, or refusal is required by law, rule, or regulation.

This subdivision (f) shall not apply to any sickness and accident insurance policy sold by a casualty insurer and shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any policy;

(8)(a) Except as otherwise expressly provided by law: (i) Knowingly permitting or offering to make or making any life insurance policy, annuity, or sickness and accident insurance policy, or agreement as to any such policy or annuity, other than as plainly expressed in the policy or annuity issued thereon, or paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such policy or annuity, any rebate of premiums payable on the policy or annuity, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the policy or annuity; or (ii) giving, selling, purchasing, or offering to give, sell, or purchase as inducement to such policy or annuity or in connection therewith any stocks, bonds, or other securities of any insurer or other corporation, association, ~~or~~ partnership, or limited liability company, or any dividends or profits accrued thereon, or anything of value not specified in the policy or annuity.

(b) Nothing in subdivision (7) or (8)(a) of this section shall be construed as including within the definition of discrimination or rebates any of the following acts or practices: (i) In the case of any life insurance policy or annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance if such bonuses or abatement of premiums are

fair and equitable to policyholders and for the best interests of the insurer and its policyholders; (ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses; or (iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(9) Failing of any insurer to maintain a complete record of all the complaints received since the date of its last examination pursuant to section 44-107 or 44-107.01. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For purposes of this subdivision, complaint shall mean any written communication primarily expressing a grievance;

(10) Making false or fraudulent statements or representations on or relative to an application for a policy for the purpose of obtaining a fee, commission, money, or other benefit from any insurer, agent, broker, or individual person;

(11) Failing of any insurer, upon receipt of a written inquiry from the department, to respond to such inquiry or request additional reasonable time to respond within fifteen working days; and

(12) Violating any provision of section 44-348, 44-360, 44-361, 44-369, 44-392, 44-393, 44-515 to 44-518, 44-522, 44-523, 44-1951, 44-1959, 44-1960, 44-1975, 44-3606, 44-4809, 44-4812, or 44-4817.

Sec. 232. That section 44-1538, Revised Statutes Supplement, 1992, be amended to read as follows:

44-1538. (1) For purposes of the Unfair Insurance Claims Settlement Practices Act:

(a) Director shall mean the Director of Insurance;

(b) Insured shall mean the party named on a policy or certificate as the individual with legal rights to the benefits provided by such policy or certificate;

(c) Insurer shall mean any person, reciprocal exchange, interinsurer, Lloyds-type insurer, fraternal benefit society, and other legal entity engaged in the business of insurance, including agents, brokers, insurance consultants, adjusters, and third-party administrators. Insurer shall also mean health maintenance organizations, prepaid limited health service organizations, and dental, optometric, and other similar health service plans. For purposes of the act, all such insurers shall be deemed to be engaged in the business of insurance;

(d) Person shall mean any natural or artificial entity, including, but not limited to, an individual, partnership, limited liability company, association, trust, or corporation; and

(e) Policy or certificate shall include any contract of insurance, indemnity, or annuity issued, proposed for issuance, or

intended for issuance by any insurer. Policy or certificate shall not include contracts of workers' compensation, fidelity, suretyship, or boiler and machinery insurance.

(2) The purpose of the definitions in this section is to include within the act and any rules and regulations adopted pursuant to the act all entities and activities to the extent not preempted by the federal Employee Retirement Income Security Act of 1974, as amended.

Sec. 233. That section 44-1602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1602. A policy issued to an employer or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer shall be subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer; or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term employees shall include the employees of one or more subsidiary corporations; and the employees, individual proprietors, ~~and~~ partners, ~~and members~~ of one or more affiliated corporations, proprietors, ~~or~~ partnerships, or limited liability companies if the business of the employer and of such affiliated corporations, proprietors, ~~or~~ partnerships, or limited liability companies is under common control through stock ownership or contract. The policy may provide that the term employees shall include the individual proprietor, ~~or partners, or members~~ if the employer is an individual proprietor, ~~or a partnership, or limited liability company~~. The policy may provide that the term employee shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor, ~~or partner, or member~~ shall be eligible for insurance under the policy unless he or she is actively engaged in and devotes a substantial part of his or her time to the conduct of the business of the proprietor, ~~or partnership, or limited liability company~~.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him or her, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees; or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least five employees at date of issue.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

Sec. 234. That section 44-1603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1603. A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor shall be subject to the following requirements:

(1) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable either (a) in installments or (b) in one sum at the end of a period not in excess of eighteen months from the initial date of the debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term debtors shall include the debtors of one or more subsidiary corporations; and the debtors of one or more affiliated corporations, proprietors, ~~or~~ partnerships, or limited liability companies if the business of the policyholder and of such affiliated corporations, proprietors, ~~or~~ partnerships, or limited liability companies is under common control through stock ownership, contract, or otherwise. No debtor shall be eligible unless the indebtedness constitutes an irrevocable obligation to repay which is binding upon him or her during his or her lifetime, at and from the date the insurance becomes effective upon his or her life;

(2) The premium for the policy shall be paid by the policyholder, ~~either~~ from the creditor's funds, ~~or~~ from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least seventy-five percent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premiums is to be derived from the collection of such identifiable charges must insure all eligible debtors; or all except any as to whom evidence of individual insurability is not satisfactory to the insurer;

(3) The policy may be issued (a) only if the group of eligible debtors is then receiving new entrants at the rate of at least one hundred persons yearly; or may reasonably be expected to receive at least one hundred new entrants during the first policy year; and (b) only if the policy reserves to the insurer the right to require evidence of individual insurability if less than seventy-five percent of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age;

(4) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by ~~him~~ such debtor which is

repayable in installments to the creditor. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of eighteen months, except that such insurance may be continued for an additional period not exceeding six months in the case of default, extension, or recasting of the loan. The amount of the insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness; and

(5) The insurance shall be payable to the policyholder; and such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

Sec. 235. That section 44-1605, Revised Statutes Supplement, 1992, be amended to read as follows:

44-1605. A policy issued to the trustees of a fund established by two or more employers or by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions shall be subject to the following requirements:

(1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term employees shall include retired employees and the individual proprietor, ~~or~~ partners, or members if an employer is an individual proprietor, ~~or a~~ partnership, or limited liability company. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor, ~~or partner,~~ or member shall be eligible for insurance under the policy unless he or she is actively engaged in and devotes a substantial part of his or her time to the conduct of the business of the proprietorship, ~~or partnership,~~ or limited liability company. The policy may provide that the term employees shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship;

(2) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both. No policy may be issued on which any part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance. The policy shall insure all eligible persons or all except any as to whom evidence of individual insurability is not satisfactory to the insurer;

(3) The policy shall cover at date of issue at least fifty persons and not less than an average of three persons per employer unit. If the fund is established by the members of an association of employers, the policy may be issued only if (a) either the participating employers constitute at the date of issue at least sixty percent of those employer members whose employees are not already covered for group life

insurance or the total number of persons covered at date of issue exceeds six hundred and (b) the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his or her employees shall cease solely by reason of such discontinuance; and

(4) The amount of insurance under the policy shall be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

Sec. 236. That section 44-1607.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1607.02. The term employees, as used in section 44-1607.01, may include the individual proprietors, ~~or~~ partners, or members, if the employer is an individual proprietor, ~~or~~ partnership, or limited liability company, and the directors of a corporate employer, if each individual proprietor, partner, member, or director devotes a substantial part of his or her time to the business of the proprietorship, partnership, limited liability company, or corporate employer.

Sec. 237. That section 44-1802, Revised Statutes Supplement, 1992, be amended to read as follows:

44-1802. For purposes of the Unauthorized Insurers False Advertising Process Act:

(1) Director shall mean the Director of Insurance; and

(2) Residents shall mean and include persons, partnerships, limited liability companies, or corporations, domestic, alien, or foreign.

Sec. 238. That section 44-1930, Revised Statutes Supplement, 1992, be amended to read as follows:

44-1930. Associate shall mean (1) any firm, association, organization, partnership, limited liability company, business trust, corporation, or other legal entity organized for profit in which a producer of title insurance business is a director, officer, partner, or owner of a financial interest, (2) the spouse or any relative within the second degree by blood or marriage of a producer of title insurance business who is a natural person, (3) any director, officer, or employee of a producer of title insurance business, (4) any legal entity that controls, is controlled by, or is under common control with a producer of title insurance business, and (5) any natural person or legal entity with whom a producer of title insurance business has any agreement, arrangement, or understanding or who pursues any course of conduct the purpose or effect of which is to evade the Title Insurance Act.

Sec. 239. That section 44-2403, Revised Statutes Supplement, 1992, be amended to read as follows:

44-2403. As used in the Nebraska Property and Liability Insurance Guaranty Association Act, unless the context otherwise requires:

(1) Account shall mean any one of the three accounts created by section 44-2404;

(2) Director shall mean the Director of Insurance or his or her duly authorized representative;

(3) Association shall mean the Nebraska Property and

Liability Insurance Guaranty Association created by section 44-2404;

(4)(a) Covered claim shall mean an unpaid claim which has been timely filed with the liquidator as provided for in the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act and which arises out of and is within the coverage of an insurance policy to which the Nebraska Property and Liability Insurance Guaranty Association Act applies issued by a member insurer that becomes insolvent after May 26, 1971, and (i) the claimant or insured is a resident of this state at the time of the insured event or (ii) the property from which the claim arises is permanently located in this state. Covered claim shall also include the policyholder's unearned premiums paid by the policyholder on an insurance policy to which the act applies issued by a member insurer that becomes insolvent on or after July 9, 1988. Nothing in this section shall be construed to supersede, abrogate, or limit the common-law ownership of accounts receivable for earned premium, unearned premium, or unearned commission.

(b) Covered claim shall not include any amount due any reinsurer, insurer, liquidator, insurance pool, or underwriting association, as subrogation recoveries or otherwise, a policy deductible or self-insured portion of the claim, a claim for any premium calculated on a retrospective basis, any premiums subject to adjustment after the date of liquidation, or any amount due an attorney or adjuster as fees for services rendered to the insolvent insurer. Subdivision (4)(b) of this section shall not prevent a person from presenting the excluded claim to the insolvent insurer or its liquidator, but the claim shall not be asserted against any other person, including the person to whom benefits were paid or the insured of the insolvent insurer, except to the extent that the claim is outside the coverage or is in excess of the limits of the policy issued by the insolvent insurer;

(5) Insolvent insurer shall mean a member insurer licensed to transact the business of insurance in this state, either at the time the policy was issued or when the insured event occurred, and against whom a final order of liquidation, with a finding of insolvency, has been entered by a court of competent jurisdiction in the company's state of domicile after September 2, 1977;

(6) Member insurer shall mean any person licensed to write any kind of insurance to which the Nebraska Property and Liability Insurance Guaranty Association Act applies by the provisions of section 44-2402, including the exchange of reciprocal or interinsurance contracts, that is licensed to transact insurance in this state, except assessment associations operating under Chapter 44, article 8, and also excepting unincorporated mutuals;

(7) Net direct written premiums shall mean direct gross premiums written in this state on insurance policies to which the Nebraska Property and Liability Insurance Guaranty Association Act applies, less return premiums thereon and dividends paid or credited to policyholders on such direct business. Net direct written premiums shall not include premiums on contracts between insurers or reinsurers;

(8) Person shall mean any individual, corporation, partnership, limited liability company, association, voluntary organization, or reciprocal insurance exchange; and

(9) Insurance shall mean those contracts defined in section 44-102.

Sec. 240. That section 44-2610, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2610. Person shall mean any individual, corporation, partnership, limited liability company, or other entity.

Sec. 241. That section 44-2617, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2617. Any corporation, ~~or partnership, or limited liability company~~ engaged in the business of insurance consulting may become licensed as an insurance consultant. No license shall be granted to a corporation, ~~or partnership, or limited liability company~~ unless the corporation, ~~or partnership, or limited liability company~~ designates a licensed consultant who shall have full responsibility for all insurance consulting transactions of the corporation, ~~or partnership, or limited liability company~~ within the state. Such designated consultant shall be an officer of the corporation or a member of the partnership ~~or limited liability company~~ and shall have a substantial interest in or be an active participant in the management of the corporation, ~~or partnership, or limited liability company~~. If a corporation, ~~or partnership, or limited liability company~~ has more than one office, it shall designate a consultant for each office. In the event a designated consultant of a licensed corporation, ~~or partnership, or limited liability company~~ shall either leave the corporation, ~~or partnership, or limited liability company~~ or have his or her license revoked, the corporation, ~~or partnership, or limited liability company~~ shall have sixty days after such revocation in which to designate another qualified licensed consultant, or have its license revoked. Any individual associated with a licensed corporation, ~~or partnership, or limited liability company~~ who acts as an insurance consultant shall be a licensed consultant.

Sec. 242. That section 44-2621, Revised Statutes Supplement, 1992, be amended to read as follows:

44-2621. Every individual applicant for a license under sections 44-2606 to 44-2635 shall have attained the age of majority, shall be competent, trustworthy, financially responsible, and of good personal and business reputation, and shall have been licensed as an agent, broker, or consultant in this state or another state for the three years immediately preceding the date of application or have successfully completed a specific program of study which has a broad national or regional recognition as determined by the director. Application shall be made to the director on forms prescribed by the director and shall be accompanied by a license fee as established by the director not to exceed thirty dollars for each resident license and not to exceed thirty-six dollars for each nonresident license and on or after June 30, 1990, a license fee as established by the director not to exceed sixty dollars for each resident individual license, not to

exceed seventy-two dollars for each nonresident individual license, not to exceed thirty dollars for each resident corporate, ~~or partnership, or limited liability company~~ license, and not to exceed thirty-six dollars for each nonresident corporate, ~~or partnership, or limited liability company~~ license. The director may issue an insurance consultant's license in two areas: Property and casualty insurance; and life, health, and annuities. A person may become licensed in either one or both of such areas.

Sec. 243. That section 44-2627, Revised Statutes Supplement, 1992, be amended to read as follows:

44-2627. The license shall state the name and resident address of the licensee, date of issuance, whether the licensee is qualified to consult in property and casualty, life, health, and annuities, or both, and such other information as the director considers proper. All individual, corporate, ~~and partnership, and limited liability company~~ licenses shall expire on June 30 of each year, except that all individual licenses issued on or after June 30, 1990, shall expire on the licensee's birthday in the first year after issuance in which his or her age is divisible by two and such individual licenses may be reissued within the ninety-day period before their expiration dates. The department shall establish procedures for the reissuance of licenses. Every licensed consultant shall notify the department within thirty days of any change in his or her residential or business address.

Sec. 244. That section 44-2702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2702. As used in the Nebraska Life and Health Insurance Guaranty Association Act, unless the context otherwise requires:

(1) Account shall mean any of the three accounts created pursuant to section 44-2705;

(2) Association shall mean the Nebraska Life and Health Insurance Guaranty Association created by section 44-2705;

(3) Director shall mean the Director of Insurance;

(4) Contractual obligation shall mean any obligation under a policy or contract or portion of such policy or contract for which coverage is provided under section 44-2703;

(5) Covered policy shall mean any policy or contract or portion of such policy or contract which is not subject to assessment and for which coverage is provided under section 44-2703;

(6) Impaired insurer shall mean a member insurer which, after August 24, 1975, (a) is deemed by the director to be potentially unable to fulfill its contractual obligations and is not an insolvent insurer or (b) is placed under an order of rehabilitation or conservation by a court of competent jurisdiction;

(7) Insolvent insurer shall mean a member insurer which after August 24, 1975, becomes insolvent and with respect to which there is a final determination of insolvency by a court of competent jurisdiction;

(8) Member insurer shall mean any person authorized to transact in this state any kind of insurance provided for under section

44-2703. Member insurer shall include any person whose license or certificate of authority may have been suspended or revoked, but shall not in any event include:

- (a) A nonprofit hospital or medical service organization;
- (b) A health maintenance organization unless such organization is controlled by an insurance company licensed by the Department of Insurance under Chapter 44;
- (c) A fraternal benefit society;
- (d) A mandatory state pooling plan;
- (e) An unincorporated mutual association;
- (f) An assessment association operating under Chapter 44 which issues only policies or contracts subject to assessment; or
- (g) A reciprocal or interinsurance exchange which issues only policies or contracts subject to assessment;

(9) Premiums shall mean direct gross insurance premiums and annuity considerations written on covered policies, less return premiums and considerations thereon and dividends paid or credited to policyholders on such direct business. Premiums shall not include premiums and considerations on contracts between insurers and reinsurers. As used in section 44-2708, premiums are those for the calendar year preceding the determination of impairment or insolvency;

(10) Person shall mean any individual, corporation, partnership, limited liability company, association, or voluntary organization;

(11) Resident shall mean any person who resides in this state at the time a member insurer is determined to be an impaired or insolvent insurer and to whom a contractual obligation is owed; and

(12) Supplemental contract shall mean any agreement entered into for the distribution of policy or contract proceeds.

Sec. 245. That section 44-2803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2803. (1) Health care provider shall mean (a) a physician; (b) a nurse anesthetist; (c) an individual, partnership, limited liability company, corporation, association, facility, institution, or other entity authorized by law to provide professional medical services by physicians or nurse anesthetists; (d) a hospital; or (e) a personal representative; as defined in ~~subdivision (33)~~ of section 30-2209; who is successor or assignee of any health care provider designated in subdivisions (a) ~~to~~ through (d) of this subsection.

(2) Nurse anesthetist shall mean a person licensed in this state pursuant to sections 71-1,132.04 to 71-1,132.37; when acting as an anesthetist on a contract basis or as an employee of a hospital.

Sec. 246. That section 44-2821, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2821. (1) Any health care provider who fails to qualify under the Nebraska Hospital-Medical Liability Act shall not be covered by the provisions of such act and shall be subject to liability under doctrines of common law. If a health care provider shall not so qualify,

the patient's remedy shall not be affected by the terms and provisions of the ~~Nebraska Hospital-Medical Liability Act~~ act.

(2) If a health care provider shall qualify under the ~~Nebraska Hospital-Medical Liability Act~~ act, the patient's exclusive remedy against the health care provider or his or her partner, member, employer, or employees for alleged malpractice, professional negligence, failure to provide care, breach of contract relating to providing medical care, or other claim based upon failure to obtain informed consent for an operation or treatment shall be as provided by the ~~Nebraska Hospital-Medical Liability Act~~ act unless the patient shall have elected not to come under the provisions of ~~such~~ the act. Unless the patient or his or her representative shall have (a) elected not to be bound by the terms of the ~~Nebraska Hospital-Medical Liability Act~~ act, (b) filed such election with the director in advance of any treatment, act, or omission upon which any claim or cause of action is based, and (c) notified the health care provider of election as soon as is reasonable under the circumstances that such patient has so elected, it shall be conclusively presumed that the patient has elected to be bound by the terms and provisions of the ~~Nebraska Hospital-Medical Liability Act~~ act. Such election may be made by either legal parent for an unborn or newborn child. Unless a legal parent of an unborn child or the guardian or other representative of a minor or incompetent makes the election in the manner provided in the ~~Nebraska Hospital-Medical Liability Act~~ act for such unborn person, minor, or incompetent, such person shall be deemed to be subject to the terms and provisions of ~~such~~ the act.

(3) An election of a patient not to be bound by the ~~Nebraska Hospital-Medical Liability Act~~ act shall be effective for a period of two years after filing unless such election is withdrawn by the patient and shall be ineffective after such two-year period unless renewed in writing and filed with the director. The patient or his or her representative may revoke the election in writing at any time and a copy of such revocation shall be forwarded to the director within five days after the same is made.

(4) Each health care provider who has qualified under the ~~Nebraska Hospital-Medical Liability Act~~ act shall post and keep posted in his or her waiting room or other suitable location a sign of a size and type to be prescribed by the director stating: (name of health care provider) has qualified under the provisions of the Nebraska Hospital-Medical Liability Act. Patients will be subject to the terms and provisions of that act unless they file a refusal to be bound by the act with the Director of Insurance of the State of Nebraska.

Sec. 247. That section 44-2824, Revised Statutes Supplement, 1992, be amended to read as follows:

44-2824. (1) To be qualified under the Nebraska Hospital-Medical Liability Act, a health care provider or such health care provider's employer, employee, ~~or~~ partner, ~~or~~ member shall:

(a) File with the director proof of financial responsibility, pursuant to section 44-2827 or 44-2827.01, in the amount of two hundred

thousand dollars for each occurrence. In the case of physicians or nurse anesthetists and their employers, employees, ~~or~~ partners, or members an aggregate liability amount of six hundred thousand dollars for all occurrences or claims made in any policy year for each named insured shall be provided. In the case of hospitals and their employees, an aggregate liability amount of one million dollars for all occurrences or claims made in any policy year or risk-loss trust year shall be provided. Such policy may be written on either an occurrence or a claims-made basis. Any risk-loss trust shall be established and maintained only on an occurrence basis. Such qualification shall remain effective only as long as insurance coverage or risk-loss trust coverage as required remains effective; and

(b) Pay the surcharge and any special surcharge levied on all health care providers pursuant to sections 44-2829 to 44-2831.

(2) Subject to the requirements in subsections (1) and (4) of this section, the qualification of a health care provider shall be either on an occurrence or claims-made basis and shall be the same as the insurance coverage provided by the insured's policy.

(3) The director shall have authority to permit qualification of health care providers who have retired or ceased doing business if such health care providers have primary insurance coverage under subsection (1) of this section.

(4) A health care provider who is not qualified under the act at the time of the alleged occurrence giving rise to a claim shall not, for purposes of that claim, qualify under the act notwithstanding subsequent filing of proof of financial responsibility and payment of a required surcharge.

(5) Qualification of a health care provider under the Nebraska Hospital-Medical Liability Act shall continue only as long as the health care provider meets the requirements for qualification. A health care provider who has once qualified under the ~~Nebraska Hospital-Medical Liability Act~~ act and who fails to renew or continue his or her qualification in the manner provided by law and by the rules and regulations of the Department of Insurance shall cease to be qualified under ~~such~~ the act.

Sec. 248. That section 44-2837, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2837. (1) The purpose of sections 44-2837 to 44-2839 is to make malpractice liability insurance available to risks as defined in this section.

(2) There is hereby created the Residual Malpractice Insurance Authority. The Department of Insurance is hereby designated as the authority for the purposes of the Nebraska Hospital-Medical Liability Act. The authority shall be empowered to engage in writing medical malpractice liability insurance in this state pursuant to existing law and authorized to insure the health care provider against other liability for injury to persons or property caused by agents, employees, ~~or~~ partners, or members of the health care provider or by property used in or activities

arising from the operations or business of the health care provider. Such insurance coverage against other liability may be provided to the health care provider by the authority only as supplemental professional liability insurance.

(3) The director may appoint a risk manager for the authority. The separate, personal, or independent assets of the risk manager shall not be liable for or subject to use or expenditure for the purpose of providing insurance by the authority.

(4) In the administration and provision for malpractice liability insurance by the authority, the risk manager shall:

(a) Be subject to all laws and regulations of this state which apply to malpractice insurance as provided in existing law;

(b) Prepare and file appropriate forms with the Department of Insurance;

(c) Prepare and file premium rates with the Department of Insurance which shall be based on accepted actuarial principles and accepted practices in the insurance industry;

(d) Perform the underwriting function;

(e) Dispose of all claims and litigation arising out of insurance policies;

(f) Maintain adequate books and records;

(g) File an annual financial statement regarding its operations under the Nebraska Hospital-Medical Liability Act with the Department of Insurance on forms prescribed by the director;

(h) Obtain private reinsurance for the authority, if available, and the cost thereof shall be paid from the Excess Liability Fund;

(i) Prepare and file a plan of operations with the director for approval; and

(j) Act fairly, reasonably, and responsibly in administering the plan.

(5) The risk manager shall receive as compensation for his or her services a percentage of all premiums received under the terms of this section which shall be computed on a fair and equitable basis as determined by the director. The compensation may be adjusted by the director from time to time.

Sec. 249. That section 44-2902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2902. Any ten or more physicians licensed under sections 71-1,102 to 71-1,107.14; may incorporate a mutual insurance association to insure member physicians, their professional corporations, partnerships, limited liability companies, agents, and employees against liability arising from rendering or failing to render professional services in the treatment or care of patients.

Sec. 250. That section 44-32,117, Revised Statutes Supplement, 1992, be amended to read as follows:

44-32,117. Each application for a certificate of authority shall be verified by an officer or authorized representative of the applicant,

shall be in a form prescribed by the director, and shall set forth or be accompanied by the following:

- (1) A copy of the organizational documents of the applicant, such as the articles of incorporation, articles of association, articles of organization, partnership agreement, trust agreement, or other applicable documents and all amendments thereto;
- (2) A copy of the bylaws, rules, and regulations; or similar document, if any, regulating the conduct of the internal affairs of the applicant;
- (3) A list of the names, addresses, and official positions and biographical information, on forms acceptable to the director, of the persons who are to be responsible for the conduct of the affairs and day-to-day operations of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee and the principal officers in the case of a corporation or the partners or members in the case of a partnership, limited liability company, or association;
- (4) A copy of any contract made or to be made between any class of providers and the health maintenance organization and a copy of any contract made or to be made between third-party administrators, marketing consultants, or persons listed in subdivision (3) of this section and the health maintenance organization;
- (5) A copy of the form of evidence of coverage to be issued to subscribers;
- (6) A copy of the form of group contract, if any, which is to be issued to employers, unions, trustees, or other organizations;
- (7) Financial statements showing the applicant's assets, liabilities, and sources of financial support, including a copy of the applicant's most recent, regular, certified financial statement and an unaudited, current financial statement;
- (8) A financial feasibility plan which includes detailed enrollment projections, the methodology for determining premium rates to be charged during the first twelve months of operations certified by an actuary or other qualified person, a projection of balance sheets, cash-flow statements showing any capital expenditures, any purchase and sale of investments, and any deposits with the state, income and expense statements anticipated from the start of operations until the health maintenance organization has had net income for at least one year, and a statement as to the sources of working capital as well as any other sources of funding;
- (9) A power of attorney duly executed by such applicant, if not domiciled in this state, appointing the director and his or her successors and duly authorized deputies as the true and lawful attorney of such applicant in and for this state upon whom all lawful process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state may be served;
- (10) A statement or map reasonably describing the geographic area to be served;

(11) A description of the internal grievance procedures to be utilized for the investigation and resolution of enrollee complaints and grievances;

(12) A description of the proposed quality assurance program, including the formal organizational structure, methods for developing criteria, procedures for comprehensive evaluation of the quality of care rendered to enrollees, and processes to initiate corrective action and reevaluation when deficiencies in provider or organizational performance are identified;

(13) A description of the procedures to be implemented to meet the protection-against-insolvency requirements in section 44-32,143;

(14) A list of the names, addresses, and license numbers, if any, of all providers with which the health maintenance organization has agreements; and

(15) Such other information as the director requires to make the determinations required in section 44-32,120.

Sec. 251. That section 44-32,125, Revised Statutes Supplement, 1992, be amended to read as follows:

44-32,125. Any director, officer, employee, ~~or~~ partner, or member of a health maintenance organization who receives, collects, disburses, or invests funds in connection with the activities of the health maintenance organization shall be responsible for such funds in a fiduciary relationship to the health maintenance organization. A health maintenance organization shall maintain in force a fidelity bond or fidelity insurance on such individuals in an amount not less than two hundred fifty thousand dollars for each health maintenance organization. The requirements of this section may be met for each of two or more health maintenance organizations owned by a common parent if the parent maintains the bond or insurance on behalf of the health maintenance organizations and any other carrier or carriers owned by the parent in an aggregate amount of not less than the lesser of (1) two hundred fifty thousand dollars times the number of such health maintenance organizations and such other carrier or carriers or (2) five million dollars.

Sec. 252. That section 44-4002, Revised Statutes Supplement, 1992, be amended to read as follows:

44-4002. For purposes of the Insurance Producers Licensing Act, unless the context otherwise requires:

(1) Appointment shall mean written notification to the department by an insurance company that it will accept applications for insurance from a licensed agent named in such notification;

(2) Broker shall be defined as provided in section 44-103;

(3) Department shall mean the Department of Insurance;

(4) Director shall mean the Director of Insurance;

(5) Insurance agent or agent shall be defined as provided in section 44-103;

(6) Insurance agency shall mean any partnership, unincorporated association, or corporation transacting or doing business with the public or insurance companies as an insurance agent or broker;

(7) License or insurance license shall mean any agent's license, broker's license, or insurance agency's license; and

(8) Person shall mean any individual, corporation, partnership, limited liability company, or other entity.

Sec. 253. That section 44-4307, Revised Statutes Supplement, 1992, be amended to read as follows:

44-4307. (1) A risk management pool shall not provide any form of group self-insurance to its members until it has received a certificate of authority to do so from the Department of Insurance. Such certificate shall expire on the last day of April in each year and shall be renewed annually thereafter if the risk management pool has continued to comply with the Intergovernmental Risk Management Act and the rules and regulations of the Department of Insurance adopted and promulgated thereunder.

(2) The Department of Insurance shall issue a certificate of authority to a risk management pool if the Director of Insurance determines:

(a) That the pool's financial plan and plan of management and any amendments thereto satisfy the requirements of section 44-4306;

(b) That the pool has adequate surplus and reserves and will receive adequate financial contributions from its members in order to operate in a manner which is not hazardous to the public; and

(c) That any individual, corporation, partnership, limited liability company, or other entity engaged by the pool to provide services in connection with its management or operation is capable of running the affairs of the pool, is of good character and known business ability, and has a practical knowledge of the executive duties of conducting a risk management pool.

(3) The filing fee for a certificate of authority issued pursuant to the Intergovernmental Risk Management Act shall be one thousand dollars.

Sec. 254. That section 44-4702, Revised Statutes Supplement, 1992, be amended to read as follows:

44-4702. For purposes of the Prepaid Limited Health Service Organization Act:

(1) Director shall mean the Director of Insurance;

(2) Enrollee shall mean an individual, including dependents, who is entitled to limited health services pursuant to a contract with an entity authorized to provide or arrange for such services under the act;

(3) Evidence of coverage shall mean any certificate, agreement, or contract issued pursuant to section 44-4709 setting forth the coverage to which an enrollee is entitled;

(4) Limited health services shall mean dental care services, vision care services, mental health services, substance abuse services, pharmaceutical services, podiatric care services, and such other services as may be determined by the director to be limited health services. Limited health services shall not include hospital, medical, surgical, or emergency services except as such services are provided incident to the limited health

services set forth in this subdivision;

(5) Prepaid limited health service organization shall mean any corporation, partnership, limited liability company, or other entity which, in return for a prepayment, undertakes to provide or arrange for the provision of one or more limited health services to enrollees. Prepaid limited health service organization shall not include (a) an entity otherwise authorized pursuant to the laws of this state either to provide any limited health service on a prepayment or other basis or to indemnify for any limited health service, (b) an entity that meets the requirements of section 44-4707, or (c) a provider or entity when providing or arranging for the provision of limited health services pursuant to a contract with a prepaid limited health service organization or with an entity described in subdivision (5)(a) or (b) of this section;

(6) Provider shall mean any physician, dentist, health facility, or other person or institution which is duly licensed or otherwise authorized to deliver or furnish limited health services; and

(7) Subscriber shall mean the person whose employment or other status, except for family dependency, is the basis for entitlement to limited health services pursuant to a contract with an entity authorized to provide or arrange for such services under the act.

Sec. 255. That section 44-4703, Revised Statutes Supplement, 1992, be amended to read as follows:

44-4703. No person, corporation, partnership, limited liability company, or other entity may operate a prepaid limited health service organization in this state without obtaining and maintaining a certificate of authority from the director pursuant to the Prepaid Limited Health Service Organization Act.

Sec. 256. That section 44-4704, Revised Statutes Supplement, 1992, be amended to read as follows:

44-4704. An application for a certificate of authority to operate as a prepaid limited health service organization shall be filed with the director on a form prescribed by the director. Such application shall be verified by an officer or authorized representative of the applicant and shall set forth or be accompanied by the following:

(1) A copy of the basic organizational document, if any, of the applicant, such as the articles of incorporation, articles of association, articles of organization, partnership agreement, trust agreement, or other applicable documents and all amendments to such documents;

(2) A copy of all bylaws, rules and regulations, or similar documents, if any, regulating the conduct of the internal affairs of the applicant;

(3) A list of the names, addresses, official positions, and biographical information of the individuals who are responsible for conducting the applicant's affairs, including, but not limited to, all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers, any person or entity owning or having the right to acquire ten percent or more of the voting securities of the applicant, and the partners or members in the case

of a partnership, limited liability company, or association;

(4) A statement generally describing the applicant, its facilities and personnel, and the limited health services to be offered;

(5) A copy of the form of any contract made or to be made between the applicant and any providers regarding the provision of limited health services to enrollees;

(6) A copy of the form of any contract made or to be made between the applicant and any person listed in subdivision (3) of this section;

(7) A copy of the form of any contract made or to be made between the applicant and any person, corporation, partnership, limited liability company, or other entity for the performance on the applicant's behalf of any functions, including, but not limited to, marketing, administration, enrollment, investment management, and subcontracting for the provision of limited health services to enrollees;

(8) A copy of the form of any group contract which is to be issued to employers, unions, trustees, or other organizations and a copy of any form of evidence of coverage to be issued to subscribers;

(9) A copy of the most recent financial statements of the applicant audited by independent certified public accountants. If the financial affairs of the applicant's parent company are audited by independent certified public accountants but those of the applicant are not, a copy of the most recent audited financial statement of the applicant's parent company, certified by an independent certified public accountant, attached to which shall be consolidating financial statements of the applicant, shall satisfy this requirement unless the director determines that additional or more recent financial information is required for the proper administration of the Prepaid Limited Health Service Organization Act;

(10) A financial plan which includes a three-year projection of anticipated operating results, a statement of the sources of working capital, any other sources of funding, and provisions for contingencies;

(11) A schedule of rates and charges;

(12) A description of the proposed method of marketing;

(13) A description of the complaint procedures to be utilized as required under section 44-4713;

(14) A description of the quality assessment and utilization review procedures to be utilized by the applicant;

(15) A description of how the applicant will comply with section 44-4718;

(16) The fee for issuance of a certificate of authority provided in section 44-4724; and

(17) Such other information as the director may reasonably require to make the determinations required by the act.

Sec. 257. That section 44-4722, Revised Statutes Supplement, 1992, be amended to read as follows:

44-4722. In lieu of any penalty specified elsewhere in the Prepaid Limited Health Service Organization Act or when no penalty is specifically provided, whenever any prepaid limited health service

organization or other person, corporation, partnership, limited liability company, or entity subject to the act has been found, pursuant to the Administrative Procedure Act, to have violated any provision of the Prepaid Limited Health Service Organization Act, the director may:

(1) Issue and cause to be served upon the organization, person, or other entity charged with the violation a copy of such findings and an order requiring such organization, person, or other entity to cease and desist from engaging in the act or practice which constitutes the violation; and

(2) Impose a monetary penalty of not more than one thousand dollars for each violation but not to exceed an aggregate penalty of ten thousand dollars.

Sec. 258. That section 44-4803, Revised Statutes Supplement, 1992, be amended to read as follows:

44-4803. For purposes of the Nebraska Insurers Supervision, Rehabilitation, and Liquidation Act:

(1) Ancillary state shall mean any state other than a domiciliary state;

(2) Creditor shall mean a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, or absolute, fixed, or contingent;

(3) Delinquency proceeding shall mean any proceeding instituted against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving such insurer and any summary proceeding under section 44-4809 or 44-4810;

(4) Department shall mean the Department of Insurance;

(5) Director shall mean the Director of Insurance;

(6) Doing business shall include any of the following acts, whether effected by mail or otherwise:

(a) The issuance or delivery of contracts of insurance to persons who are residents of this state;

(b) The solicitation of applications for such contracts or other negotiations preliminary to the execution of such contracts;

(c) The collection of premiums, membership fees, assessments, or other consideration for such contracts;

(d) The transaction of matters subsequent to execution of such contracts and arising out of them; or

(e) Operating as an insurer under a license or certificate of authority issued by the department;

(7) Domiciliary state shall mean the state in which an insurer is incorporated or organized or, in the case of an alien insurer, its state of entry;

(8) Fair consideration is given for property or an obligation:

(a) When in exchange for such property or obligation, as a fair equivalent therefor, and in good faith, (i) property is conveyed, (ii) services are rendered, (iii) an obligation is incurred, or (iv) an antecedent debt is satisfied; or

(b) When such property or obligation is received in good faith to secure a present advance or antecedent debt in an amount not disproportionately small as compared to the value of the property or obligation obtained;

(9) Foreign country shall mean any other jurisdiction not in any state;

(10) Foreign guaranty association shall mean a guaranty association now in existence in or hereafter created by the legislature of another state;

(11) Formal delinquency proceeding shall mean any liquidation or rehabilitation proceeding;

(12) General assets shall mean all property, real, personal, or otherwise, not specifically mortgaged, pledged, deposited, or otherwise encumbered for the security or benefit of specified persons or classes of persons. As to specifically encumbered property, general assets shall include all such property or its proceeds in excess of the amount necessary to discharge the sum or sums secured thereby. Assets held in trust and on deposit for the security or benefit of all insureds or all insureds and creditors, in more than a single state, shall be treated as general assets;

(13) Guaranty association shall mean the Nebraska Property and Liability Insurance Guaranty Association, the Nebraska Life and Health Insurance Guaranty Association, and any other similar entity now or hereafter created by the Legislature for the payment of claims of insolvent insurers;

(14) Insolvency or insolvent shall mean:

(a) For an insurer formed under Chapter 44, article 8:

(i) The inability to pay any obligation within thirty days after it becomes payable; or

(ii) If an assessment is made within thirty days after such date, the inability to pay such obligation thirty days following the date specified in the first assessment notice issued after the date of loss;

(b) For any other insurer, that it is unable to pay its obligations when they are due or when its admitted assets do not exceed its liabilities plus the greater of:

(i) Any capital and surplus required by law to be maintained; or

(ii) The total par or stated value of its authorized and issued capital stock; and

(c) For purposes of this subdivision, liabilities shall include, but not be limited to, reserves required by statute or by rules and regulations adopted and promulgated or specific requirements imposed by the director upon a subject company at the time of admission or subsequent thereto;

(15) Insurer shall mean any person who has done, purports to do, is doing, or is licensed to do an insurance business and is or has been subject to the authority of or to liquidation, rehabilitation, reorganization, supervision, or conservation by the director or the director, commissioner, or equivalent official of another state. Any other persons

included under section 44-4802 shall be deemed to be insurers;

(16) Person shall include any individual, corporation, partnership, limited liability company, association, trust, or other entity;

(17) Receiver shall mean receiver, liquidator, rehabilitator, or conservator as the context requires;

(18) Reciprocal state shall mean any state other than this state in which in substance and effect sections 44-4818, 44-4852, 44-4853, and 44-4855 to 44-4857 are in force, in which provisions are in force requiring that the director, commissioner, or equivalent official of such state be the receiver of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers;

(19) Secured claim shall mean any claim secured by mortgage, trust deed, pledge, or deposit as security, escrow, or otherwise but shall not include a special deposit claim or a claim against general assets. The term shall also include claims which have become liens upon specific assets by reason of judicial process;

(20) Special deposit claim shall mean any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons but shall not include any claim secured by general assets;

(21) State shall mean any state, district, or territory of the United States and the Panama Canal Zone; and

(22) Transfer shall include the sale of property or an interest therein and every other and different mode, direct or indirect, of disposing of or of parting with property, an interest therein, or the possession thereof or of fixing a lien upon property or an interest therein, absolutely or conditionally, voluntarily, or by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.

Sec. 259. That section 44-5115, Revised Statutes Supplement, 1992, be amended to read as follows:

44-5115. (1) Except as provided in subsections (2) through (4) of this section, an insurer's investments authorized under the Insurers Investment Act in any one person shall not exceed five percent of the insurer's admitted assets.

(2) Subsection (1) of this section shall not apply to:

(a) Investments authorized under sections 44-5123, 44-5125, 44-5142, 44-5150, and 44-5153;

(b) Investments authorized under section 44-5132 if collateralized by mortgages for which the full faith and credit of the United States or Canada is pledged for the payment of all principal and interest;

(c) Loans made pursuant to section 44-5106; and

(d) Real estate held pursuant to subsection (2) of section 44-5144.

(3)(a) An insurer's investments authorized under section 44-5124 or 44-5126 in any one agency or instrumentality of the United States or Canada shall not exceed twenty-five percent of the insurer's

admitted assets, and (b) an insurer's investments authorized under section 44-5132 in any one person if collateralized by mortgages for which the full faith and credit of an agency or instrumentality of the United States or Canada is pledged for the payment of all principal and interest shall not exceed twenty-five percent of the insurer's admitted assets. An insurer's investments authorized under section 44-5124 or 44-5126 in any one agency or instrumentality of the United States or Canada and the insurer's investments authorized under section 44-5132 collateralized by mortgages for which the full faith and credit of such agency or instrumentality of the United States or Canada is pledged for the payment of all principal and interest, in the aggregate, shall not exceed twenty-five percent of the insurer's admitted assets.

(4)(a) An insurer's investments in any one person whose senior obligations have a 3 designation from the Securities Valuation Office of the National Association of Insurance Commissioners, in the aggregate, shall not exceed three percent of the insurer's admitted assets.

(b) An insurer's investments in any one person whose senior obligations have a 4 designation from the Securities Valuation Office of the National Association of Insurance Commissioners, in the aggregate, shall not exceed two percent of the insurer's admitted assets.

(c) An insurer's investments in any one person whose senior obligations have a 5 designation from the Securities Valuation Office of the National Association of Insurance Commissioners, in the aggregate, shall not exceed one percent of the insurer's admitted assets.

(d) An insurer's investments in any one person whose senior obligations have a 6 designation from the Securities Valuation Office of the National Association of Insurance Commissioners, in the aggregate, shall not exceed one-half percent of the insurer's admitted assets.

(5) For purposes of this section, person shall mean an individual or entity or group of individuals or entities so related as in fact to constitute a single venture, institution, corporation, association, company, partnership, limited liability company, syndicate, trust, society, or other legal entity.

Sec. 260. That section 44-5144, Revised Statutes Supplement, 1992, be amended to read as follows:

44-5144. (1) An insurer may acquire and hold unencumbered real estate or certificates evidencing participation with other investors, either directly or through partnership or limited liability company interests, in unencumbered real estate if:

(a) The real estate is leased under a lease contract in which the lessee contracts to pay all assessments, taxes, maintenance, and operating costs;

(b) The net amount of the annual lease payments to the owner of the real estate is sufficient to amortize the cost of the real estate within the duration of the lease, but in no event for a period of longer than forty years, and pay at least three percent per annum on the unamortized balance of the cost of the real estate; and

(c) The amount invested in any such real estate does not exceed its appraised value.

When the lessee under a lease described in this subsection is the United States or any agency or instrumentality thereof, any state or any county, municipality, district, or other governmental subdivision thereof, or any agency, board, authority, or institution established or maintained under the laws of the United States or any state thereof, such lease contract may provide that upon the termination of the term thereof title to such real estate shall vest in the lessee.

When an insurer owns less than the entire real estate leased under a lease described in this subsection, the legal title to the real estate shall be in the name of a trustee which meets the qualifications set out in subsection (5) of section 44-5143 under a trust agreement which provides, among other things, that upon proper notification of default under such lease and request to such trustee by an investor or investors representing at least twenty-five percent of the equitable ownership of the real estate and proper indemnification, the trustee shall proceed to protect the rights and interest of the investors owning the equitable title to the real estate.

(2) An insurer may also acquire and hold real estate:

(a) Mortgaged to it in good faith by way of security for a loan previously contracted or for money due;

(b) Conveyed to it in satisfaction of debts previously contracted in the course of its dealings; and

(c) Purchased at sale upon judgments, decrees, or mortgages obtained or made for such debts.

(3) An insurer may invest in real estate required for its home offices or to be otherwise occupied by the insurer or its employees in the transaction of its business and may rent the balance of the space therein. The value of an insurer's investments authorized under this subsection shall not exceed ten percent of its admitted assets.

(4)(a) An insurer with policyholders surplus of at least one million dollars may individually or in conjunction with other investors acquire, own, hold, develop, and improve real estate that is essentially residential or commercial in character, even though subject to an existing mortgage or thereafter mortgaged by the insurer, if such real estate is located in a city or village or within five miles of the limits thereof.

(b) For purposes of this subsection, real estate shall include a leasehold having an unexpired term of at least twenty years, including the term provided by any enforceable option of renewal. The income from such leasehold shall be applied so as to amortize the cost of leasehold and improvements within the lesser of eighty percent of such expired term or forty years from acquisition.

(c) The value of an insurer's investments authorized under this subsection shall not exceed ten percent of its admitted assets.

(5) An insurer may also acquire such other real estate as may be acquired ancillary to a corporate merger, acquisition, or reorganization of the insurer.

(6) The value of an insurer's investments authorized under

subsections (3), (4), and (5) of this section, in the aggregate, shall not exceed fifteen percent of its admitted assets.

(7) For purposes of this section, value shall mean original cost plus any development and improvement costs whenever expended less the unpaid balance of any mortgage and annual depreciation on improvements of not less than two percent.

(8) An insurer's investments authorized under this section and section 44-5143, in the aggregate, shall not exceed fifty percent of its admitted assets.

Sec. 261. That section 44-5214, Revised Statutes Supplement, 1992, be amended to read as follows:

44-5214. Small employer shall mean any person, firm, corporation, partnership, limited liability company, or association actively engaged in business which, on at least fifty percent of its working days during the preceding year, employed no more than twenty-five eligible employees. In determining the number of eligible employees, companies which are affiliated companies or which are eligible to file a combined tax return for purposes of taxation shall be considered one employer.

Sec. 262. That section 44-5812, Revised Statutes Supplement, 1992, be amended to read as follows:

44-5812. (1) No person shall act as, offer to act as, or hold himself or herself out to be a third-party administrator in this state without a valid certificate of authority as a third-party administrator issued by the director.

(2) An applicant for a certificate of authority as a third-party administrator shall make application to the director upon a form to be furnished by the director. The application shall include or be accompanied by the following information and documents:

(a) All basic organizational documents of the applicant, including any articles of incorporation, articles of association, articles of organization, partnership agreement, trade name certificate, trust agreement, shareholder agreement, and other applicable documents and all amendments to such documents;

(b) The bylaws, rules, regulations, or similar documents regulating the internal affairs of the applicant;

(c) The names, addresses, official positions, and professional qualifications of the individuals who are responsible for the conduct of affairs of the applicant, including all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation or the partners or members in the case of a partnership, limited liability company, or association, shareholders holding directly or indirectly ten percent or more of the voting securities of the applicant, and any other person who exercises control or influence over the affairs of the applicant;

(d) Annual financial statements or reports for the two most recent years which prove that the applicant is solvent and such information as the director may require in order to review the current financial condition of the applicant;

(e) A statement describing the business plan including information on staffing levels and activities proposed in this state and nationwide. The business plan shall provide details setting forth the applicant's capability for providing a sufficient number of experienced and qualified personnel in the areas of claims processing, record keeping, and underwriting;

(f) If the applicant will be managing the solicitation of new or renewal business, proof that it employs or has contracted with an agent licensed in this state for solicitation and taking of applications. Any applicant which intends to directly solicit insurance contracts or to otherwise act as an insurance agent shall provide proof that it has a license as an insurance agent in this state; and

(g) Such other pertinent information as may be required by the director.

(3) The applicant shall make available for inspection by the director copies of all written agreements with insurers and contracts with other persons utilizing the services of the applicant.

(4) The director may refuse to issue a certificate of authority as a third-party administrator if the director determines that the applicant or any individual responsible for the conduct of affairs of the applicant as described in subdivision (2)(c) of this section is not competent, trustworthy, financially responsible, or of good personal and business reputation or has had an insurance license or certificate of authority or a third-party administrator license or certificate of authority denied or revoked for cause by any state.

(5) A certificate of authority as a third-party administrator issued under this section shall remain valid, unless surrendered to or suspended or revoked by the director, for so long as the third-party administrator continues in business in this state and remains in compliance with the Third-Party Administrator Act.

(6) A third-party administrator shall not be required to hold a certificate of authority as a third-party administrator in this state if all of the following conditions are met:

(a) The third-party administrator has its principal place of business in another state;

(b) The third-party administrator is not soliciting business as a third-party administrator in this state; and

(c) In the case of any group policy, group contract, or plan of insurance serviced by the third-party administrator, the lesser of five percent or one hundred certificate holders or subscribers reside in this state.

(7) A person shall not be required to hold a certificate of authority as a third-party administrator in this state if the person exclusively provides services to one or more bona fide employee benefit plans each of which is established by an employer or an employee organization, or both, and for which the insurance laws of this state are preempted pursuant to the Employee Retirement Income Security Act of 1974. Such person shall register with the director annually and verify his

or her status as described in this section.

(8) A third-party administrator shall immediately notify the director of any material change in its ownership or control or other fact or circumstance affecting its qualification for a certificate of authority as a third-party administrator in this state.

Sec. 263. That section 45-101.04, Revised Statutes Supplement, 1992, be amended to read as follows:

45-101.04. The limitation on the rate of interest provided in section 45-101.03 shall not apply to:

(1) Other rates of interest authorized for loans made by any licensee or permittee operating under a license or permit duly issued by the Department of Banking and Finance pursuant to the Credit Union Act, subsection (4) of section 8-319, or sections 8-401 to 8-417, 8-815 to 8-829, or 45-114 to 45-155;

(2) Loans made to any corporation, partnership, limited liability company, or trust;

(3) The guarantor or surety of any loan to a corporation, partnership, limited liability company, or trust;

(4) Loans made when the aggregate principal amount of the indebtedness is twenty-five thousand dollars or more of the borrower to any one financial institution, licensee, or permittee;

(5) Loans insured, guaranteed, sponsored, or participated in, either in whole or part, by any agency, department, or program of the United States or state government;

(6) Loans or advances of money, repayable on demand, which are made solely upon securities, as defined in subdivision (12) of section 8-1101, pledged as collateral for such repayment and in which such loans or advances are used by the borrower only for the purchase of securities as so defined. It shall be lawful to contract for and receive any rate of interest on such transaction as the parties thereto may expressly agree;

(7) Interest charges made on open credit accounts by a person who sells goods or services on credit when the interest charges do not exceed one and one-third percent per month for any charges which remain unpaid for more than thirty days following rendition of the statement of account;

(8) A minimum charge of ten dollars per loan which may be charged by the lender in lieu of all interest charges;

(9) Loans described in subsection (4) of section 8-319 made by a state or federal savings and loan association at a rate not to exceed nineteen percent per annum;

(10) Loans made primarily for business or agricultural purposes or loans secured by real estate when such loans are made (a) by a licensee, registrant, or permittee operating under a license, registration, or permit duly issued by the Department of Banking and Finance, (b) by any bank or savings and loan association chartered by the United States, or (c) by any insurance company organized under the laws of this state and subject to regulation by the Department of Insurance; or

(11) Interest charges made on any goods or services sold under an installment contract pursuant to the Nebraska Installment Sales Act. Subject to section 45-338, it shall be lawful to contract for and receive any rate of interest on such contract as the parties may expressly agree to in writing.

Sec. 264. That section 45-114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-114. The word person, when used in sections 45-114 to 45-155, means individuals, partnerships, limited liability companies, associations, banks, trust companies, savings banks, building and loan associations, trusts, corporations, and all other legal entities. The word department, when used in ~~said~~ such sections, means the Department of Banking and Finance, ~~of the State of Nebraska~~. The word license, when used in such sections, means permit.

It is not the intention of the Legislature that any revenue arising hereunder shall inure to any school fund of the State of Nebraska or any of its governmental subdivisions.

Loan, when used in sections 45-114 to 45-155 and 45-173 to 45-188; shall not include any loan made by a person who is not a licensee on which the interest does not exceed the maximum rate permitted by section 45-101.03.

~~Nothing and nothing~~ in sections 45-114 to 45-155 and 45-173 to 45-188 shall apply to any loan made by a person who is not a licensee if the interest on the loan does not exceed the maximum rate permitted by section 45-101.03.

Sec. 265. That section 45-120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-120. Upon the filing of such application, the payment of the license fee and the approval of the required bond, the Director of Banking and Finance shall investigate the facts, and, if he or she finds ~~shall find~~ that (1) the experience, character, and general fitness of the applicant; and of the members thereof if the applicant ~~be is~~ is a ~~partnership~~ partnership, limited liability company, or association, and of the officers and directors thereof if the applicant ~~be is~~ is a corporation, are such as to warrant belief that the business will be operated honestly, fairly, and efficiently within the purposes of sections 45-114 to 45-155, and (2) allowing such applicant to engage in business will promote the convenience and advantage of the community in which the business of the applicant is to be conducted, the Department of Banking and Finance shall issue and deliver an original license to the applicant to make loans at the location specified in ~~said~~ the application, in accordance with the ~~provisions of said~~ sections, which license shall remain in full force and effect until March 1 next thereafter and from year to year thereafter, if and when renewed, under the ~~provisions of said~~ sections, until it is surrendered by the licensee or revoked as herein provided.

Sec. 266. That section 45-128, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-128. Any firm or individual members thereof,

partnership or individual members thereof, limited liability company or individual members thereof, association or individual members thereof, or corporation or officers thereof, or person, who by any device, subterfuge, or pretense whatsoever, ~~shall engage~~ engages in or ~~continue~~ continues any of the kinds of business or enterprise permitted to licensees by sections 45-114 to 45-155 without having obtained the license ~~therein~~ required by such sections, with intent to evade the provisions of ~~said~~ such sections, shall be guilty of a Class I misdemeanor.

Sec. 267. That section 45-133, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-133. No licensee or other person, firm, partnership, limited liability company, association, or corporation subject to sections 45-114 to 45-155 shall advertise, print, display, publish, distribute, or broadcast; or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast; in any manner whatsoever any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action; which is false, misleading, or deceptive. The Department of Banking and Finance may order any licensee to desist from any conduct which it shall find to be a violation of ~~the foregoing provisions~~ this section. The department may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as it may deem necessary to prevent misunderstanding thereof by prospective borrowers.

Sec. 268. That section 45-142, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-142. No such person, firm, partnership, limited liability company, corporation, or association so licensed shall receive any security agreement or assignment of salary or wages signed in blank, but all blank spaces shall be filled in with ink or typewritten or printed with the proper names and amounts; showing the name of the person, firm, partnership, limited liability company, corporation, or association by whom the person making the conveyance or assignment is employed. No assignment or order for wages shall be valid which contains an amount in excess of the sum borrowed together with the interest and charges as provided herein.

Sec. 269. That section 45-145, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-145. Every person, firm, partnership, limited liability company, corporation, or association; licensed as provided in sections 45-114 to 45-155; shall, at the time any loan is made, give to the borrower or; if there are two or more borrowers; to one of them a statement in the English language disclosing in clear and distinct terms the information required to be disclosed under the federal Consumer Credit Protection Act.

Sec. 270. That section 45-153, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-153. Any person, firm, partnership, limited liability company, corporation, or association; or officer or employee thereof; violating any of the provisions of sections 45-138 to 45-145; shall be

guilty of a Class II misdemeanor.

Sec. 271. That section 45-190, Revised Statutes Supplement, 1992, be amended to read as follows:

45-190. For purposes of sections 45-189 to 45-193, unless the context otherwise requires:

(1) Advance fee shall mean any fee, deposit, or consideration which is assessed or collected, prior to the closing of a loan, by a loan broker and shall include, but not be limited to, any money assessed or collected for processing, appraisals, credit checks, consultations, or expenses;

(2) Borrower shall mean a person obtaining or desiring to obtain a loan of money;

(3) Department shall mean the Department of Banking and Finance;

(4) Loan broker shall mean any person, except any bank, trust company, savings and loan association or subsidiary of a savings and loan association, building and loan association, credit union, industrial loan company, securities broker-dealer, licensed or registered mortgage banker, real estate broker or salesperson, attorney, Federal Housing Administration or United States Department of Veterans Affairs approved lender as long as the loan of money made by the Federal Housing Administration or the United States Department of Veterans Affairs approved lender is secured or covered by guarantees or commitments or agreements to purchase or take over the same by the Federal Housing Administration or the United States Department of Veterans Affairs, credit card company, installment loan licensee, or insurance company which is subject to regulation or supervision under the laws of the United States or this state, who:

(a) For or in expectation of consideration, procures, attempts to procure, arranges, or attempts to arrange a loan of money for a borrower;

(b) For or in expectation of consideration, assists, consults, or advises a borrower in obtaining or attempting to obtain a loan of money;

(c) Is employed as an agent for the purpose of soliciting borrowers as clients of the employer; or

(d) Holds himself or herself out, through advertising, signs, or other means, as a loan broker; and

(5) Person shall mean natural persons, corporations, trusts, unincorporated associations, joint ventures, ~~and~~ partnerships, and limited liability companies.

Sec. 272. That section 45-350, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-350. (1) Renewal of a license originally granted under the Nebraska Installment Sales Act may be denied or a license may be suspended or revoked by the director on the following grounds: (a) Material misstatement in the application for license; (b) willful failure to comply with any provision of the Nebraska Installment Sales Act relating

to installment contracts; (c) defrauding any buyer to the buyer's damage; or (d) fraudulent misrepresentation, circumvention, or concealment by the licensee through whatever subterfuge or device of any of the material particulars or the nature thereof required to be stated or furnished to the buyer under the Nebraska Installment Sales Act.

(2) If a licensee is a partnership, limited liability company, association, or corporation, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership or limited liability company has so acted or failed to act as would be cause for suspending or revoking a license to such party as an individual.

(3) No license shall be denied, suspended, or revoked except after hearing thereon. The director shall give the licensee at least ten days' written notice, in the form of an order to show cause, of the time and place of such hearing by either registered or certified mail addressed to the principal place of business in this state of such licensee. Such notice shall contain the grounds of complaint against the licensee. Any order suspending or revoking such license shall recite the grounds upon which the same is based. The order shall be entered upon the records of the director and shall not be effective until after thirty days' written notice thereof given after such entry forwarded by either registered or certified mail to the licensee at such principal place of business. No revocation, suspension, or surrender of any license shall impair or affect the obligation of any lawful installment contract acquired previously thereto by the licensee.

(4) Any person, licensee, or applicant considering himself or herself aggrieved by an order of the director entered under the provisions of this section may appeal the order. ~~The~~ and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 273. That section 45-607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

45-607. (1) The license provided for by sections 45-601 to 45-622 shall be granted only to applicants who are trustworthy, have a good reputation for honesty and fair dealings, who are financially responsible, and who are, in the opinion of the Secretary of State, competent to engage in the collection of accounts and claims of others. No license shall be issued to a partnership, limited liability company, corporation, or association unless the manager or executive officer thereof has been engaged in the collection business either as owner, officer, partner, member, or employee of an established reputable collection agency for a period of at least two years, except that the Secretary of State may, if satisfied that the applicant or the manager or executive officer thereof has had sufficient business experience to be fully competent to engage in the collection business without such previous collection experience, approve such application.

(2) No such license shall be issued to any person, firm, limited liability company, corporation, or association who or which is not a resident of this state or does not keep and maintain a regular office in

this state in which are kept complete records of collections and claims handled by such person, firm, limited liability company, corporation, or association for creditors residing in this state and against debtors residing in this state, except that a foreign corporation or limited liability company duly authorized, admitted, and licensed to do business in this state may be issued such a license if it complies with all requirements of sections 45-601 to 45-622, nor shall any license be issued to any person, firm, limited liability company, corporation, or association who or which, or the principal officers of which, have, within the past five years, been convicted in any court of fraud or have been convicted of or had judgment entered against them in any court for failure to account to their client or customer for money or property collected by them for such client or customer.

Sec. 274. That section 45-702, Revised Statutes Supplement, 1992, be amended to read as follows:

45-702. For purposes of the Mortgage Bankers Registration and Licensing Act:

(1) Borrower shall mean the mortgagor or mortgagors under a real estate mortgage or the trustor or trustors under a deed of trust;

(2) Department shall mean the Department of Banking and Finance;

(3) Director shall mean the Director of Banking and Finance;

(4) Financial institution shall mean any person organized or chartered under the laws of this state, any other state, or the United States relating to banks, savings institutions, trust companies, savings and loan associations, credit unions, industrial loan and investment companies, installment loan licensees, or similar associations organized under the laws of this state and subject to supervision by the department;

(5) Licensee shall mean any person licensed under the act;

(6) Mortgage banker shall mean any person not exempt under section 45-703 who, for compensation or gain or in the expectation of compensation or gain, directly or indirectly makes, originates, services, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for ten or more mortgage loans in a calendar year;

(7) Mortgage banking business shall mean any person who employs a mortgage banker or mortgage bankers or who directly or indirectly makes, negotiates, acquires, sells, arranges for, or offers to make, originate, service, negotiate, acquire, sell, or arrange for ten or more mortgage loans in a calendar year for compensation or gain or in the expectation of compensation or gain;

(8) Mortgage loan shall mean any loan or extension of credit secured by a lien on real property, including a refinancing of a contract of sale or an assumption or refinancing of a prior loan or extension of credit;

(9) Person shall mean an association, joint venture, joint-stock company, partnership, limited partnership, limited liability

company, business corporation, nonprofit corporation, individual, or any group of individuals however organized;

(10) Real property shall mean an owner-occupied single-family, two-family, three-family, or four-family dwelling which is located in this state and is occupied, used, or intended to be occupied or used for residential purposes;

(11) Registered bank holding company shall mean any (a) one bank holding company registered with the department pursuant to section 8-1202 or 8-1203, (b) bank holding company as defined in section 8-902, or (c) regional out-of-state bank holding company as defined in section 8-902 and on and after January 1, 1991, any bank holding company authorized by section 8-902.02 to own or control banks in this state acting pursuant to the Bank Holding Company Act of 1963;

(12) Registrant shall mean a person registered pursuant to section 45-704; and

(13) Service shall mean accepting payments and maintenance of escrow accounts in the regular course of business in connection with a mortgage loan.

Sec. 275. That section 45-706, Revised Statutes Supplement, 1992, be amended to read as follows:

45-706. (1) Upon the filing of an application for a license, if the director finds that the character and general fitness of the applicant, the members thereof if the applicant is a partnership, limited liability company, association, or other organization, and the officers, directors, and principal employees if the applicant is a corporation are such that the business will be operated honestly, soundly, and efficiently in the public interest consistent with the purposes of the Mortgage Bankers Registration and Licensing Act, the director shall issue a license as a mortgage banker to the applicant. The director shall approve or deny an application for a license within ninety days after the filing of the application and payment of the required fee.

(2) If the director determines that the license should be denied, the director shall notify the applicant in writing of the denial and of the reasons for the denial. The director shall not deny an application for a license because of the failure to submit information required under the act or rules and regulations adopted and promulgated under the act without first giving the applicant an opportunity to correct the deficiency by supplying the missing information. A decision of the director denying a license pursuant to the act may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(3) Upon the filing of an application, delivery of the bond required under section 45-709, and payment of the required fee, the director may issue the applicant a temporary license pending a final determination by the director granting or denying a license. The director shall issue a temporary license to any applicant that files an affidavit stating that the applicant was doing business in this state as a mortgage banker on or before January 1, 1989. The temporary license shall be for an initial period of ninety days and may be extended in the director's

discretion beyond ninety days upon the request of the applicant or upon the director's request.

(4) All licenses issued pursuant to subsection (1) of this section shall remain in full force and effect until the next succeeding March 1. Thereafter licenses shall be renewed annually. For the annual renewal of an original license to conduct mortgage banking business under the Mortgage Bankers Registration and Licensing Act, the fee shall be one hundred dollars.

Sec. 276. That section 45-802, Revised Statutes Supplement, 1992, be amended to read as follows:

45-802. For purposes of the Credit Services Organization Act:

(1) Buyer shall mean an individual who is solicited to purchase or who purchases the services of a credit services organization;

(2) Consumer reporting agency shall have the meaning assigned by the Fair Credit Reporting Act, 15 U.S.C. 1681a(f);

(3) Credit services organization shall mean a person who, with respect to the extension of credit by others and in return for the payment of money or other valuable consideration, provides or represents that the person can or will provide any of the following services:

(a) Improving a buyer's credit record, history, or rating;

(b) Obtaining an extension of credit for a buyer; or

(c) Providing advice or assistance to a buyer with regard to subdivision (a) or (b) of this subdivision;

(4) Extension of credit shall mean the right to defer payment of debt or to incur debt and defer its payment offered or granted primarily for personal, family, or household purposes; and

(5) Person shall include individual, corporation, company, association, partnership, limited liability company, and other business entity.

Sec. 277. That section 46-296, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-296. As used in sections 33-105, 46-202, 46-226.01, 46-226.02, 46-233, 46-240, 46-241, 46-242, and 46-295 to 46-2,106, unless the context otherwise requires:

(1) Department shall mean the Department of Water Resources;

(2) Director shall mean the Director of Water Resources;

(3) Person shall mean a natural person, partnership, limited liability company, association, corporation, municipality, or ~~any~~ agency or political subdivision of the state or of the federal government;

(4) Underground water storage shall mean the act of storing or recharging water in underground strata. Such water shall be known as water stored underground, but the term shall not include ground water; as defined in section 46-657; which occurs naturally;

(5) Intentional underground water storage shall mean underground water storage which is an intended purpose or result of a water project or use. Such storage may be accomplished by any lawful

means such as injection wells, infiltration basins, canals, reservoirs, and other reasonable methods; and

(6) Incidental underground water storage shall mean underground water storage which occurs as an indirect result, rather than an intended or planned purpose, of a water project or use and may include, but shall not be limited to, seepage from reservoirs, canals, and laterals, and deep percolation from irrigated lands.

Sec. 278. That section 46-505, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-505. Wherever the term person is used in sections 46-501 to 46-573; and not otherwise specified, it shall be taken to mean a person, firm, partnership, limited liability company, association, or corporation; other than a county, village, city, city and county, or other political subdivision. Similarly, the words public corporation shall be taken to mean counties, cities and counties, villages, cities, school districts, irrigation districts, water districts, park districts, public power districts, public power and irrigation districts, and all governmental agencies; clothed with the power of levying or providing for the levy of general or special taxes or special assessments.

Sec. 279. That section 46-657, Revised Statutes Supplement, 1992, be amended to read as follows:

46-657. As used in the Nebraska Ground Water Management and Protection Act and in sections 46-601 to 46-613.01 and 46-636 to 46-655, unless the context otherwise requires:

(1) Person shall mean a natural person, a partnership, a limited liability company, an association, a corporation, a municipality, an irrigation district, or an agency or a political subdivision of the state;

(2) Ground water shall mean that water which occurs in or moves, seeps, filters, or percolates through ground under the surface of the land;

(3) Well shall mean any artificial opening or excavation in the ground through which ground water flows under natural pressure or is artificially withdrawn. A series of wells developed and pumped as a single unit shall be considered as one well. For purposes of the act, well shall not mean any artificial opening or excavation in which a pump of less than one hundred gallons per minute capacity is to be installed and which is to be used solely for supply of ground water for domestic purposes;

(4) Construction of a well shall mean boring, drilling, jetting, digging, or excavating and installing casing, pumps, and other devices for withdrawing or facilitating the withdrawal of ground water;

(5) Contamination or contamination of ground water shall mean nitrate nitrogen or other material which enters the ground water due to action of any person and causes degradation of the quality of ground water sufficient to make such ground water unsuitable for present or reasonably foreseeable beneficial uses;

(6) District shall mean a natural resources district operating pursuant to Chapter 2, article 32;

(7) Director shall mean the Director of Water Resources;

(8) Illegal well shall mean (a) any well operated or constructed without or in violation of a permit required by the act, (b) any well not in compliance with rules and regulations adopted and promulgated pursuant to the act, (c) any well not properly registered in accordance with sections 46-602 to 46-604, or (d) any well not in compliance with any other applicable laws of the State of Nebraska or with rules and regulations adopted and promulgated pursuant to such laws;

(9) Control area shall mean any area so designated by the director following a public hearing initiated and conducted pursuant to section 46-658;

(10) To commence construction of a well shall mean the beginning of the boring, drilling, jetting, digging, or excavating of the actual well from which ground water is to be withdrawn;

(11) Well driller shall mean any person who constructs, reconstructs, alters, or repairs a well. The term shall not include a person who performs labor or services for a well driller at his or her direction and under his or her supervision;

(12) Management area shall mean any area so designated by a district pursuant to sections 46-673.01 to 46-673.06;

(13) Ground water reservoir life goal shall mean the finite or infinite period of time which a district establishes as its goal for maintenance of the supply and quality of water in a ground water reservoir at the time a ground water management plan is adopted;

(14) Board shall mean the board of directors of a district;

(15) Irrigated acre shall mean any acre that is certified as such pursuant to rules and regulations of the district and that is actually capable of being supplied water through irrigation works, mechanisms, or facilities existing at the time of the allocation;

(16) Acre-inch shall mean the amount of water necessary to cover an acre of land one inch deep;

(17) Subirrigation or subirrigated land shall mean the natural occurrence of a ground water table within the root zone of agricultural vegetation, not exceeding ten feet below the surface of the ground;

(18) Best management practices shall mean schedules of activities, maintenance procedures, and other management practices utilized to prevent or reduce present and future contamination of ground water which may include irrigation scheduling, proper timing of fertilizer and pesticide application, and other fertilizer and pesticide management programs;

(19) Special ground water quality protection area shall mean any area designated as such by the Director of Environmental Control following a public hearing, with boundaries approved by the Director of Environmental Control, in which contamination of ground water is occurring;

(20) Point source shall mean any discernible, confined, and discrete conveyance, including, but not limited to, any pipe, channel,

tunnel, conduit, well, discrete fissure, container, rolling stock, vessel, other floating craft, or other conveyance, over which the Department of Environmental Control has regulatory authority and from which a substance which can cause or contribute to contamination of ground water is or may be discharged;

(21) Allocation shall mean the allotment of a specified total number of acre-inches of irrigation water per irrigated acre per year or an average number of acre-inches of irrigation water per irrigated acre over any reasonable period of time not to exceed five years; and

(22) Rotation shall mean a recurring series of use and nonuse of irrigation wells on an hourly, daily, weekly, or monthly basis or of irrigated acres on an annual basis.

Sec. 280. That section 46-1001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1001. As used in sections 46-1001 to 46-1020, unless the context otherwise requires:

(1) District shall mean a rural water district organized pursuant to sections 46-1001 to 46-1020;

(2) Board shall mean the governing body of a district;

(3) The terms county board and county clerk shall mean, respectively, the county board and county clerk of the county in which the greatest portion of the territory of any existing or proposed rural water district is located;

(4) Participating member shall mean an individual, firm, partnership, limited liability company, association, or corporation which owns land located within a district and which has subscribed to one or more benefit units of such district; and

(5) Director shall mean the Director of Water Resources.

Sec. 281. That section 46-1015, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

46-1015. The board of directors of any water district shall have power to cause to be constructed within such district such works as are authorized by sections 46-1001 to 46-1020 and to issue revenue bonds therefor; which shall be exempt from taxation. Such bonds shall be self-liquidating out of the revenue to be derived by the district for its services and facilities, ~~and~~ shall be issued to mature in such installments as shall be determined by the board of directors of the district, and shall bear interest payable monthly, annually, or semiannually. Such revenue bonds may also be issued to refund outstanding revenue bonds or notes or other evidences of indebtedness issued to pay costs of improvements for which bonds could be issued. Upon determining a schedule of benefit units and unit fees, the board shall cause a declaration of availability of such units for subscription to be entered in its minutes and any individual who fails to become a participating member within thirty days thereafter shall not be eligible to hold office as a director, nor shall any individual, firm, partnership, limited liability company, association, or corporation which fails to become a participating member within ninety days after such declaration be qualified to participate at any meeting or vote at any

election held thereafter unless such individual, firm, partnership, limited liability company, association, or corporation shall thereafter become a participating member.

Sec. 282. That section 48-115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-115. The terms employee and worker are used interchangeably and have the same meaning throughout the Nebraska Workers' Compensation Act. Such terms include the plural and all ages and both sexes and shall be construed to mean:

(1) Every person in the service of the state or of any governmental agency created by it, including the Nebraska National Guard and members of the military forces of the State of Nebraska, under any appointment or contract of hire, expressed or implied, oral or written. For the purposes of the Nebraska Workers' Compensation Act, (a) volunteer firefighters of any fire department of any rural or suburban fire protection district, city, or village, which fire department is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such rural or suburban fire protection district, city, or village while in the performance of their duties as members of such department and shall be considered as having entered and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a fire station or other place where firefighting equipment that their company or unit is to use is located or to any emergency that the volunteer firefighters may be officially called to participate in, (b) members of such volunteer fire department, before they are entitled to benefits under the Nebraska Workers' Compensation Act, shall be recommended by the chief of the fire department for membership therein to the board of directors, the mayor and city commission, the mayor and council, or the chairperson and board of trustees, as the case may be, and upon confirmation shall be deemed employees of the rural or suburban fire protection district, city, or village, (c) members of such fire department after confirmation to membership may be removed by a majority vote of such board of directors, commission, council, or board and thereafter shall not be considered employees of such rural or suburban fire protection district, city, or village, (d) firefighters of any fire department of any rural or suburban fire protection district, city, or village shall be considered as acting in the performance and within the scope of their duties in fighting fire or saving property or life outside of the corporate limits of their respective districts, cities, or villages, but only if directed to do so by the chief of the fire department or some person authorized to act for such chief, (e) any members of the state Civil Defense Agency, any local organization for civil defense, or any civil defense mobile support unit, which state Civil Defense Agency, local organization for civil defense, or civil defense mobile support unit is regularly organized under the laws of the State of Nebraska, shall be deemed employees of such state Civil Defense Agency, local organization for civil defense, or civil defense mobile support unit while in the performance of their duties as members of such state Civil Defense Agency, local organization, or

mobile support unit, (f) any person fulfilling conditions of probation, or community service as defined in section 29-2277, pursuant to any order of any court of this state who shall be working for a governmental body, or agency as defined in section 29-2277, pursuant to any condition of probation, or community service as defined in section 29-2277, shall be deemed an employee of the governmental body or agency for the purposes of the Nebraska Workers' Compensation Act, (g) volunteer ambulance drivers and attendants who provide ambulance service for any county, city, or village or any combination of such county, city, or village under the authority of section 13-303 shall be deemed employees of the county, city, or village or combination thereof while in the performance of their duties as such ambulance drivers or attendants and shall be considered as having entered into and as acting in the regular course of their employment when traveling from any place from which they have been called to active duty to a hospital or other place where the ambulance they are to use is located or to any emergency in which the volunteer drivers or attendants may be officially called to participate, but such volunteer ambulance drivers or attendants shall be considered as acting in the performance and within the scope of their duties outside of the corporate limits of their respective county, city, or village only if officially directed to do so, (h) before such volunteer ambulance drivers or attendants shall be entitled to benefits under the Nebraska Workers' Compensation Act, they shall be confirmed to perform such duties by the county board or the governing body of the city or village or combination thereof, as the case may be, and upon such confirmation shall be deemed employees of the county, city, or village or combination thereof and may be removed by majority vote of such county board or governing body of the city or village, (i) members of a law enforcement reserve force appointed in accordance with section 81-1438 shall be deemed employees of the county or city for which they were appointed, and (j) any inmate working for the Department of Correctional Services pursuant to section 81-1827 shall be deemed an employee of the Department of Correctional Services solely for purposes of the Nebraska Workers' Compensation Act; and

(2) Every person in the service of an employer who is engaged in any trade, occupation, business, or profession as described in section 48-106 under any contract of hire, expressed or implied, oral or written, including aliens and also including minors, who for the purpose of making election of remedies under the Nebraska Workers' Compensation Act shall have the same power of contracting and electing as adult employees.

As used in subdivisions (1) and (2) of this section, the terms employee and worker shall not be construed to include any person whose employment is not in the usual course of the trade, business, profession, or occupation of his or her employer.

If an employee subject to the Nebraska Workers' Compensation Act suffers an injury on account of which he or she or, in the event of his or her death, his or her dependents would otherwise have been entitled to the benefits provided by such act, the employee or, in the

event of his or her death, his or her dependents shall be entitled to the benefits provided under such act, if the injury or injury resulting in death occurred within this state, or if at the time of such injury (a) the employment was principally localized within this state, (b) the employer was performing work within this state, or (c) the contract of hire was made within this state.

(3) Every executive officer of a corporation elected or appointed under the provisions or authority of the charter, articles of incorporation, or bylaws of such corporation shall be an employee of such corporation under the Nebraska Workers' Compensation Act, except that an executive officer of a Nebraska corporation who owns twenty-five percent or more of the common stock of such corporation may waive his or her right to coverage. Such waiver shall be in writing and filed with the secretary of the corporation and the Nebraska Workers' Compensation Court. Such waiver, as prescribed by the compensation court, shall include a statement in substantially the following form: Notice. I am aware that health and accident insurance policies frequently exclude coverage for personal injuries caused by accident or occupational disease arising out of and in the course of employment. Before waiving my rights to coverage under the Nebraska Workers' Compensation Act, I certify that I have carefully examined the terms of my health and accident coverage. Such waiver shall become effective from the date of receipt by the compensation court and shall remain in effect until the waiver is terminated by the officer in writing and filed with the secretary of the corporation and the compensation court. The termination of the corporate executive officer's waiver shall be effective upon receipt of the termination by the compensation court. It shall not be permissible to terminate a waiver prior to one year after the waiver has become effective.

(4) Each individual employer, partner, member, or self-employed person who is actually engaged in the individual employer's, partnership's, limited liability company's, or self-employed person's business on a substantially full-time basis may elect to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act, if he or she (a) files with his or her current workers' compensation insurer written notice of election to have the same rights as an employee only for purposes of workers' compensation insurance coverage acquired by and for such individual employer, partner, member, or self-employed person or (b) gives notice of such election and such insurer collects a premium for such coverage acquired by and for such individual employer, partner, member, or self-employed person. This election shall be effective from the date of receipt by the insurer for the current policy and subsequent policies issued by such insurer until such time as such employer, partner, member, or self-employed person files a written statement withdrawing such election with the current workers' compensation insurer or until such coverage by such insurer is terminated, whichever occurs first. When so included, the individual employer, partner, member, or self-employed person shall have the same rights as an employee only with respect to the benefits provided under the Nebraska Workers' Compensation Act. If any individual

employer, partner, member, or self-employed person who is actually engaged in the individual employer's, partnership's, limited liability company's, or self-employed person's business on a substantially full-time basis has not elected to bring himself or herself within the provisions of the Nebraska Workers' Compensation Act pursuant to this subdivision and any health, accident, or other insurance policy issued to or renewed by such person after July 10, 1984, contains an exclusion of coverage, if the insured is otherwise entitled to workers' compensation coverage, such exclusion shall be null and void as to such person.

Sec. 283. That section 48-145.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-145.01. Any employer required to secure the payment of compensation under the Nebraska Workers' Compensation Act who willfully fails to secure the payment of such compensation shall be guilty of a Class I misdemeanor. In any case when the employer is a corporation, any officer or employee of the corporation who had authority to secure payment of compensation on behalf of the corporation and willfully failed to do so shall be individually guilty of a Class I misdemeanor and such officer or employee shall be personally liable jointly and severally with such corporation for any compensation which may accrue under the Nebraska Workers' Compensation Act in respect to any injury which may occur to any employee of such corporation while it shall so fail to secure the payment of compensation as required by section 48-145. In any case when the employer is a limited liability company, any member or manager of the company who had authority to secure payment of compensation on behalf of the company and willfully failed to do so shall be individually guilty of a Class I misdemeanor and such member or manager shall be personally liable jointly and severally with such company for any compensation which may accrue under the Nebraska Workers' Compensation Act in respect to any injury which may occur to any employee of such company while it shall so fail to secure the payment of compensation as required by section 48-145. If an employer who is subject to the Nebraska Workers' Compensation Act does not carry workers' compensation insurance nor qualify as a self-insurer, he or she may also be enjoined from doing business in this state until he or she complies with subdivision (1) of section 48-145. If a temporary injunction is granted at the request of the State of Nebraska, no bond shall be required to make the injunction effective.

Sec. 284. That section 48-162, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-162. The Nebraska Workers' Compensation Court, or any judge thereof, is authorized and empowered to examine under oath or otherwise any person, employee, employer, agent, superintendent, foreman, or officer of any ~~partnership~~ partnership, limited liability company, or corporation, any officer of any domestic insurance company, any agent of any foreign insurance company, or any medical practitioner, to issue subpoenas for the appearance of witnesses and the production of books and papers, to solemnize marriages, and to administer oaths with

like effect as is done in other courts of law in this state. In the examination of any witness and in requiring the production of books, papers, and other evidence, the compensation court shall have and exercise all of the powers of a judge, magistrate, or other officer in the taking of depositions or the examination of witnesses, including the power to enforce his or her orders by commitment for refusal to answer or for the disobedience of any such order. The compensation court may establish a schedule of fees for services including, but not limited to, copying, preparation of forms and other material, responding to inquiries for information, and publications prepared by the compensation court. In establishing fees the compensation court shall consider costs for time, material, and delivery.

There is hereby created the Nebraska Workers' Compensation Court Cash Fund. All sums of money received from fees pursuant to this section and sections 48-120, 48-157, and 48-165 shall be paid to the State Treasurer and deposited in the Nebraska Workers' Compensation Court Cash Fund. Money in such fund shall be used to fund the services described in this section and sections 48-120, 48-157, and 48-165. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections 72-1237 to ~~72-1269~~ 72-1276.

Sec. 285. That section 48-175, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-175. (1) Whenever the post office address of the defendant is known; or may be ascertained by the officer or person charged with the duty of serving the same, such summons may be served by such officer or person by certified mail.

(2) In the event the party to be served, in accordance with subsection (1) of this section, is a corporation, ~~or~~ a partnership, or a limited liability company, a certified copy of the summons shall be directed to the proper officer, agent, or member of such organization who is authorized by law to accept service of process.

(3) The officer; in making his or her return of all processes served, in accordance with subsection (1) or (2) of this section, shall append to and file with the original return the return receipt as herein set forth. Any judge of the Nebraska Workers' Compensation Court may serve or cause to be served such summons by certified mail as provided in this section.

Sec. 286. That section 48-220, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-220. As used in sections 48-220 to 48-223, unless the context otherwise requires, employer shall mean and include an individual, a partnership, a limited liability company, an association, a corporation, a legal representative, a trustee, a receiver, a trustee in bankruptcy, and any common carrier by rail, motor, water, air, or express company doing business in or operating within the state.

Sec. 287. That section 48-402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-402. In factories, mills, ~~or~~ workshops, mercantile or mechanical establishments, or other places where the labor performed by the operator is of such a character that it becomes necessary to change the clothing, wholly or in part, before leaving the building at the close of the day's work, separate dressing rooms shall be provided for females whenever so required by the Department of Labor. It shall be the duty of every occupant, whether owner or lessee of any such premises used as specified by sections 48-401 to 48-424, to make all the changes and additions thereto. In case such changes are made upon the order of the department to the lessee of the premises, the lessee may at any time within thirty days after the completion thereof, bring an action against any person, corporation, ~~or~~ partnership, or limited liability company having an interest in such premises; and may recover such proportion of expenses of making such changes and additions as the court adjudges should justly and equitably be borne by such defendant.

Sec. 288. That section 48-501.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-501.01. For purposes of sections 48-501.01 to 48-513, 48-515, 48-516, and 48-518 to 48-524, unless the context otherwise requires:

(1) Person shall mean natural persons, corporations, trusts, unincorporated associations, ~~and~~ partnerships, and limited liability companies;

(2) Private employment agency shall mean a person who for hire or with a view to profit shall undertake to secure employment for individuals where a fee or other valuable consideration is exacted; or attempted to be collected; directly from the employee; and

(3) The term fee shall mean any money or other valuable consideration paid or promised to be paid by an employee for services rendered or to be rendered by a private employment agency.

Sec. 289. That section 48-602, Revised Statutes Supplement, 1992, be amended to read as follows:

48-602. For purposes of the Employment Security Law, unless the context otherwise requires:

(1) Base period shall mean the last four completed calendar quarters immediately preceding the first day of an individual's benefit year, except that the commissioner may prescribe by rule and regulation that base period shall mean the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(2) Benefits shall mean the money payments payable to an individual with respect to his or her unemployment;

(3) Benefit year, with respect to any individual, shall mean the one-year period beginning with the first day of the first week with respect to which the individual first files a valid claim for benefits, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual next files a valid claim for benefits after the termination of his or her last preceding benefit year. Any claim for benefits made in accordance with section 48-629 shall be deemed to be

a valid claim for the purpose of this subdivision if the individual has been paid the wages for insured work required under section 48-627. For the purposes of this subdivision a week with respect to which an individual files a valid claim shall be deemed to be in, within, or during that benefit year which includes the greater part of such week;

(4) Calendar quarter shall mean the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, or the equivalent thereof as the Commissioner of Labor may by rule and regulation prescribe;

(5) Commissioner shall mean the Commissioner of Labor;

(6) Contributions shall mean the money payments to the state Unemployment Compensation Fund as required by sections 48-648 and 48-649;

(7) Department shall mean the Department of Labor;

(8) Employee leasing company shall mean an independently established business entity which engages in the business of providing leased employees to a client-lessee. Client-lessee shall mean any other employer, individual, organization, partnership, limited liability company, corporation, or other legal entity;

(9) Employment office shall mean a free public employment office or branch thereof, operated by this state or maintained as a part of a state-controlled system of public employment offices, including public employment offices operated by an agency of a foreign government;

(10) Fund shall mean the Unemployment Compensation Fund established by section 48-617 to which all contributions and payments in lieu of contributions required and from which all benefits provided shall be paid;

(11) Hospital shall mean an institution which has been licensed, certified, or approved by the Department of Health as a hospital;

(12) Institution of higher education shall mean an institution which: (a) Admits as regular students only individuals having a certificate of graduation from a high school or the recognized equivalent of such a certificate; (b) is legally authorized in this state to provide a program of education beyond high school; (c) provides an educational program for which it awards a bachelor's degree or higher or provides a program which is acceptable for full credit toward such a degree, a program of postgraduate or postdoctoral studies, or a program of training to prepare students for gainful employment in a recognized occupation; and (d) is a public or other nonprofit institution; notwithstanding any of the foregoing provisions of this subdivision, all colleges and universities in this state are institutions of higher education for purposes of this section;

(13) Insured work shall mean employment for employers;

(14) Payments in lieu of contributions shall mean the money payments to the Unemployment Compensation Fund required by sections 48-649, 48-652, 48-660.01, and 48-661;

(15) State includes, in addition to the states of the United States of America, any dependency of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of

Columbia;

(16) Wages, except with respect to services performed in employment as provided in subdivisions (4)(c) and (d) of section 48-604, shall mean all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash. The reasonable cash value of remuneration in any medium other than cash shall be estimated and determined in accordance with rules and regulations prescribed by the commissioner. After December 31, 1985, wages shall include tips which are received while performing services which constitute employment and which are included in a written statement furnished to the employer pursuant to section 6053(a) of the Internal Revenue Code of 1954, as amended. With respect to services performed in employment in agricultural labor as is provided in subdivision (4)(c) of section 48-604 or in domestic service as is provided in subdivision (4)(d) of section 48-604, wages shall mean cash remuneration for such services, except that as used in sections 48-648 and 48-649 only, prior to January 1, 1978, the term wages shall not include that part of the remuneration which, after remuneration equal to four thousand two hundred dollars, subsequent to December 31, 1977, after remuneration equal to six thousand dollars, and subsequent to December 31, 1982, after remuneration equal to seven thousand dollars has been paid to an individual by an employer or by the predecessor of such employer with respect to employment within this or any other state during any calendar year, is paid to such individual by such employer during such calendar year, unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund.

The term wages shall not include: (a) The amount of any payment, including any amount paid by an employer for insurance or annuities or into a fund to provide for such payment, made to, or on behalf of, an individual in employment or any of his or her dependents under a plan or system established by an employer which makes provision for such individuals generally or for a class or classes of such individuals, including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment, on account of (i) sickness or accident disability, except, in the case of payments made to an employee or any of his or her dependents, subdivision (16)(a)(i) of this section shall exclude from wages only payments which are received under a workers' compensation law, (ii) medical and hospitalization expenses in connection with sickness or accident disability, or (iii) death; (b) the payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954, as amended; (c) any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual after the expiration of six calendar months following the last calendar month in which such individual worked for such employer; (d) any payment made to, or on behalf of, an individual or

his or her beneficiary (i) from or to a trust described in section 401(a) of the Internal Revenue Code of 1954 which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954 at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust or (ii) under or to an annuity plan which, at the time of such payment, meets the requirements of section 401 of the Internal Revenue Code of 1954; (e) any payment made to, or on behalf of, an employee or his or her beneficiary: (i) Under a simplified employee pension as defined by the commissioner; (ii) under or to an annuity contract as defined by the commissioner, other than a payment for the purchase of such contract which is made by reason of a salary reduction agreement, whether evidenced by a written instrument or otherwise; (iii) under or to an exempt governmental deferred compensation plan as defined by the commissioner; (iv) to supplement pension benefits under a plan or trust, as defined by the commissioner, to take into account some portion or all of the increase in the cost of living since retirement, but only if such supplemental payments are under a plan which is treated as a welfare plan; or (v) under a cafeteria benefits plan; and (f) remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business;

(17) Week shall mean such period of seven consecutive days as the commissioner may by rule and regulation prescribe; and

(18) Week of unemployment with respect to any individual shall mean any week during which he or she performs less than full-time work and the wages payable to him or her with respect to such week are less than his or her weekly benefit amount.

Sec. 290. That section 48-603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-603. As used in the Employment Security Law, unless the context clearly requires otherwise, employer shall mean:

(1) Any individual or type of organization, including any partnership, limited liability company, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which is or was an employer as defined by the Employment Security Law immediately prior to May 27, 1971, and after December 31, 1971, any such individual or employing concern which for some portion of a day but not necessarily simultaneously in each of twenty different calendar weeks, whether or not such weeks are or were consecutive, within either the current or preceding calendar year, and for the purpose of this definition, if any week includes both December 31 and January 1, the days up to January 1 shall be deemed one calendar week and the days beginning January 1 another such week, has or had in employment one or more individuals, irrespective of whether the same individuals are or were employed in each such day; all individuals performing services for any employer of any person in this state, who maintains two or more separate establishments

within this state, shall be deemed to be employed by a single employer; any artifice or device, including any contract or subcontract, by an employer for the performance of work, which is a part of such employer's usual trade, occupation, profession, or business, entered into for the purpose or with the intent of evading the application of this section to such employer, is hereby prohibited and declared to be unlawful;

(2) Any employer of any person in this state who after December 31, 1971, in any calendar quarter in either the current or preceding calendar year has paid wages for employment in the total sum of fifteen hundred dollars or more;

(3) Any individual or employer of any person in this state which acquired the organization, trade, or business, or substantially all the assets thereof, of another employer which, at the time of such acquisition, was an employer subject to the Employment Security Law;

(4) Any employer of any person in this state, which acquired the organization, trade, or business, or substantially all the assets thereof, of another employer of any person in this state, not an employer subject to such law, and which, if subsequent to such acquisition it were treated as a single unit with such other employer, would be an employer under subdivision (1) or (2) of this section;

(5) Any employer of any person in this state which, having become an employer under any provision of the Employment Security Law and which has not, under section 48-661, ceased to be an employer subject to such law;

(6) For the effective period of its election pursuant to section 48-661, any other employer of any person in this state who has elected to become fully subject to the Employment Security Law;

(7) Any employer of any person in this state not an employer by reason of any other subdivision of this section (a) for which services in employment are or were performed with respect to which such employer is liable for any federal tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund; or (b) which, as a condition for approval of the Employment Security Law for full tax credit against the tax imposed by the Federal Unemployment Tax Act, is required, pursuant to such act, to be an employer under the Employment Security Law;

(8) The state or any of its instrumentalities which is or was an employer under the Employment Security Law immediately prior to September 2, 1977, and after December 31, 1977, the state or any political subdivision thereof and any instrumentality of any one or more of the foregoing;

(9) Any organization for which service in employment as defined in section 48-604, subdivision (4)(b) is performed after December 31, 1971;

(10) Any individual or employing unit for which service in employment as defined in section 48-604, subdivision (4)(c), is performed after December 31, 1977;

(11) Any individual or employing unit for which service in

employment as defined in section 48-604, subdivision (4)(d), is performed after December 31, 1977; and

(12)(a) In determining whether or not an employing unit for which service other than domestic service is also performed is an employer under subdivision (1) or (10) of this section, the wages earned or the employment of an employee performing domestic service after December 31, 1977, shall not be taken into account; and

(b) In determining whether or not an employing unit for which agricultural labor is also performed is an employer under subdivision (11) of this section, the wages earned or the employment of an employee performing services in agricultural labor after December 31, 1977, shall not be taken into account. If an employing unit is determined an employer of agricultural labor, such employing unit shall be determined an employer for the purposes of subdivision (1) of this section.

Sec. 291. That section 48-604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-604. As used in the Employment Security Law, unless the context otherwise requires, employment shall mean:

(1) Any service performed after June 30, 1941, including service in interstate commerce, for wages or under any contract of hire, written or oral, express or implied;

(2) The term employment shall include an individual's entire service, performed within or both within and without this state if (a) the service is localized in this state, (b) the service is not localized in any state but some of the service is performed in this state and the base of operations or, if there is no base of operations, then the place from which such service is directed or controlled is in this state or the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed but the individual's residence is in this state, (c) the service shall be deemed to be localized within a state if (1) the service is performed entirely within such state, or (2) the service is performed both within and without such state, but the service performed without such state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions;

(3) Services performed outside the state and services performed outside the United States as follows:

(a) Services not covered under subdivision (2) of this section and performed entirely without this state, with respect to no part of which contributions are required under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to the Employment Security Law if the Commissioner of Labor approves the election of the employer, for whom such services are performed, that the entire service of such individual shall be deemed to be employment subject to such law;

(b) Services of an individual wherever performed within the United States or Canada, if (1) such service is not covered under the employment compensation law of any other state or Canada, and (2) the

place from which the service is directed or controlled is in this state;

(c) Services of an individual who is a citizen of the United States, performed outside the United States except in Canada in the employ of an American employer, other than service which is deemed employment under subsections (2) and (3)(a) and (b) of this section or the parallel provisions of another state's law, if: (1) The employer's principal place of business in the United States is located in this state; or (2) the employer has no place of business in the United States, but the employer is an individual who is a resident of this state; or the employer is a corporation or limited liability company which is organized under the laws of this state; or the employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any other state; or (3) none of the criteria of subdivisions (1) and (2) of this subdivision is met, but the employer has elected coverage in this state or, the employer having failed to elect coverage in any state, the individual has filed a claim for benefits based on such service under the laws of this state; (4) an American employer, for the purposes of this subsection, shall mean: (i) An individual who is a resident of the United States; (ii) a partnership if two-thirds or more of the partners are residents of the United States; (iii) a trust if all the trustees are residents of the United States; or (iv) a corporation or limited liability company organized under the laws of the United States or of any state; (5) the term United States for the purpose of this section includes the states, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico;

(4)(a) Service performed prior to January 1, 1978, which is or was service in employment for this state or any instrumentality thereof immediately prior to September 2, 1977, including service performed after December 31, 1971, in the employ of this state or any of its instrumentalities, or in the employ of this state and one or more other states or their instrumentalities, for a hospital or institution of higher education located in this state; and service performed after December 31, 1977, in the employ of this state or any political subdivision thereof or any instrumentality of any one or more of the foregoing or any instrumentality which is wholly owned by this state and one or more other states or political subdivisions, or any service performed in the employ of any instrumentality of this state or of any political subdivision thereof and one or more other states or political subdivisions if such service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(7) of that act and is not otherwise excluded under this section;

(b) Service performed after December 31, 1971, by an individual in the employ of a religious, charitable, educational, or other organization, but only if the following conditions are met: (1) The service is excluded from employment as defined in the Federal Unemployment Tax Act solely by reason of section 3306(c)(8) of that act and is not otherwise excluded under this section; and (2) the organization had four or more individuals in employment for some portion of a day in each of

twenty different weeks, whether or not such weeks were consecutive, within either the current or preceding calendar year, regardless of whether they were employed at the same moment of time;

(c) Service performed after December 31, 1977, by an individual in agricultural labor as defined in subdivision (6)(a) of this section when: (i) Such service is performed for a person who during any calendar quarter in either the current or preceding calendar year paid remuneration in cash of twenty thousand dollars or more to individuals employed in agricultural labor, or for some portion of a day in each of twenty different calendar weeks, whether or not such weeks were consecutive, in either the current or the preceding calendar year, employed in agricultural labor ten or more individuals, regardless of whether they were employed at the same moment of time; (ii) such service is not performed in agricultural labor if performed before January 1, 1984, by an individual who is an alien admitted to the United States to perform service in agricultural labor pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act; (iii) for the purposes of this subdivision, any individual who is a member of a crew furnished by a crew leader to perform services in agricultural labor for any other person shall be treated as an employee of such crew leader if such crew leader holds a valid certificate of registration under the Farm Labor Contractor Registration Act of 1963; or substantially all the members of such crew operate or maintain tractors, mechanized harvesting or cropdusting equipment, or any other mechanized equipment, which is provided by such crew leader; and if such individual is not an employee of such other person within the meaning of any other provisions of this section; (iv) for the purposes of subdivision (c) of this subdivision, in case any individual who is furnished by a crew leader to perform service in agricultural labor for any other person and who is not treated as an employee of such crew leader under subdivision (c)(iii); such other person and not the crew leader shall be treated as the employer of such individual; and such other person shall be treated as having paid cash remuneration to such individual in an amount equal to the amount of cash remuneration paid to such individual by the crew leader, either on his or her own behalf or on behalf of such other person, for the service in agricultural labor performed for such other person; and (v) for the purposes of subdivision (c) of this subdivision, the term crew leader means an individual who furnishes individuals to perform service in agricultural labor for any other person, pays, either on his or her own behalf or on behalf of such other person, the individuals so furnished by him or her for the service in agricultural labor performed by them, and has not entered into a written agreement with such other person under which such individual is designated as an employee of such other person; and

(d) Service performed after December 31, 1977, by an individual in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority if performed for a person who paid cash remuneration of one thousand dollars or more after December 31, 1977, in the current calendar year or the preceding

calendar year to individuals employed in such domestic service in any calendar quarter;

(5) Services performed by an individual for wages shall be deemed to be employment, unless it be shown to the satisfaction of the commissioner that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of the business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. The provisions of this subdivision are not intended to be a codification of the common law and shall be considered complete as written;

(6) The term employment shall not include: (a) Agricultural labor, except as provided in subdivision (4)(c) of this section, including all services performed (1) on a farm, in the employ of any employer, in connection with cultivating the soil or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, fur-bearing animals, and wildlife; (2) in the employ of the owner, tenant, or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment or in salvaging timber or clearing land of brush and other debris left by a windstorm, if the major part of such service is performed on a farm; (3) in connection with the production or harvesting of any commodity defined as an agricultural commodity in section 15(g) of the Federal Agricultural Marketing Act, as amended; in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes; (4)(i) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing, or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if such operator produced more than one-half of the commodity with respect to which such service is performed; (ii) in the employ of a group of operators of farms, or a cooperative organization of which such operators are members, in the performance of service described in subdivision (i), but only if such operators produced more than one-half of the commodity with respect to which such service is performed; (iii) subdivisions (i) and (ii) of this subdivision shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption; or (5) on a farm operated for profit if such service is not in the course of the employer's trade or business. As used in this section, the term farm includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms,

plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards; (b) domestic service, except as provided in subdivision (4)(d) of this section, in a private home, local college club, or local chapter of a college fraternity or sorority; (c) service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service and, for the purposes of this subdivision, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if (i) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business, or (ii) such individual was regularly employed, as determined under subdivision (i) of this subdivision, by such employer in the performance of such service during the preceding calendar quarter; (d) service performed by an individual in the employ of his or her son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his or her father or mother; (e) service performed in the employ of the United States Government or an instrumentality of the United States immune under the Constitution of the United States from the contributions imposed by sections 48-648 and 48-649, except that, to the extent that the Congress of the United States shall permit states to require any instrumentalities of the United States to make payments into an unemployment fund under a state unemployment compensation act, all of the Employment Security Law shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, individuals, and services, except that if this state shall not be certified for any year by the Secretary of Labor of the United States under section 3304 of the Internal Revenue Code of 1954, the payments required of such instrumentalities with respect to such year shall be refunded by the commissioner from the fund in the same manner and within the same period as is provided in section 48-660, with respect to contributions erroneously collected; (f) service performed in the employ of this state, or any political subdivision thereof or any instrumentality of any one or more of the foregoing if such services are performed by an individual in the exercise of his or her duties: (i) As an elected official; (ii) as a member of the legislative body or a member of the judiciary of a state or political subdivision thereof; (iii) as a member of the Army National Guard or Air National Guard; (iv) as an employee serving on a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency; or (v) in a position which, under or pursuant to the state law, is designated a major nontenured policymaking or advisory position, or a policymaking or advisory position, the performance of the duties of which ordinarily does not require more than eight hours per week; (g) for the purposes of subdivisions (4)(a) and (4)(b) of this section, service performed (1) in the

employ of (i) a church or convention or association of churches or (ii) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; (2) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of the duties required by such order; (3) prior to January 1, 1978, in the employ of a school which is not an institution of higher education; (4) in a facility conducted for the purpose of carrying out a program of rehabilitation for an individual whose earning capacity is impaired by age or physical or mental deficiency or injury providing remunerative work for the individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market or by an individual receiving such rehabilitation or remunerative work; (5) as part of an unemployment work relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training; or (6) prior to January 1, 1978, for a hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution and after December 31, 1977, by an inmate of a custodial or penal institution; (h) service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of Congress; (i) service performed in any calendar quarter in the employ of any organization exempt from income tax under section 501(a) of the Internal Revenue Code of 1954, other than an organization described in section 401(a) of the Internal Revenue Code of 1954, or under section 521 thereof, if the remuneration for such service is less than fifty dollars; (j) service performed in the employ of a school, college, or university, if such service is performed (1) by a student who is enrolled and is regularly attending classes at such school, college, or university or (2) by the spouse of such student, if such spouse is advised, at the time such spouse commences to perform such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university and (ii) such employment will not be covered by any program of unemployment insurance; (k) service performed as a student nurse in the employ of a hospital or nurses training school by an individual who is enrolled and is regularly attending classes in a nurses training school chartered or approved pursuant to state law; and service performed as an intern in the employ of a hospital by an individual who has completed a four-year course in a medical school chartered or approved pursuant to state law; (l) service performed by an individual as a real estate salesperson, as an insurance agent, or as an insurance solicitor, if all such service performed by such individual is performed for remuneration solely by way of commission; (m) service performed by an individual under the age of eighteen in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery

or distribution; (n) service performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers and magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which the newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such service, or is entitled to be credited with the unsold newspapers or magazines turned back; (o) service performed by an individual who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, as a student in a full-time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employer, except that this subdivision shall not apply to service performed in a program established for or on behalf of an employer or a group of employers; (p) service performed in the employ of a hospital, if such service is performed by a patient of the hospital; (q) service performed for a motor carrier, as defined in 49 U.S.C. 10102(11) as amended or subsection (8) of section 75-302 as amended, by a lessor leasing one or more motor vehicles driven by the lessor or one or more drivers provided by the lessor under a lease executed pursuant to 49 C.F.R. 1057 as amended or Article 7 of section III as amended of the rules and regulations of the Nebraska Public Service Commission with the motor carrier as lessee. This shall not preclude the determination of an employment relationship between the lessor and any personnel provided by the lessor in the conduct of the service performed for the lessee. The existence of such a lease either prior to, on the date of, or after August 26, 1983, shall preclude a determination of liability as defined by the Employment Security Law after September 1, 1982; (r) service performed by an individual for a business engaged in compilation of marketing data bases if such service consists only of the processing of data and is performed in the residence of the individual. The performance of such service prior to, on, or after August 26, 1983, shall preclude a determination of liability as defined by the Employment Security Law after January 1, 1983; and (s) service performed by an individual as a volunteer research subject who is paid on a per study basis for scientific, medical, or drug-related testing for any organization other than one described in section 501(c)(3) of the Internal Revenue Code of 1954, as amended, or any governmental entity;

(7) If the services performed during one-half or more of any pay period by an individual for the person employing him or her constitute employment, all the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for the person employing him or her do not constitute employment, then none of the services of such individual for such period shall be deemed to be

employment. As used in this subdivision the term pay period means a period, of not more than thirty-one consecutive days, for which a payment of remuneration is ordinarily made to such individual by the person employing him or her. This subdivision shall not be applicable with respect to services performed in a pay period by an individual for the person employing him or her where any of such service is excepted by subdivision (h) of subdivision (6) of this section;

(8) Notwithstanding the foregoing exclusions from the definition of employment, services shall be deemed to be in employment if with respect to such services a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment compensation fund or which as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act is required to be covered under the Employment Security Law; and

(9) Any extension of the definition of employment by this section to include services heretofore excluded shall not be effective until after December 31, 1977, and section 48-604 as it existed prior to its amendments by Laws 1977, LB 509, shall be applicable to services performed prior to January 1, 1978.

Sec. 292. That section 48-652, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-652. (1)(a) A separate experience account shall be established for each employer who is liable for payment of contributions. Whenever and wherever in the Employment Security Law the terms reserve account or experience account are used, unless the context clearly indicates otherwise, such terms shall be deemed interchangeable and synonymous and reference to either of such accounts shall refer to and also include the other. (b) A separate reimbursement account shall be established for each employer who is liable for payments in lieu of contributions. All benefits paid with respect to service in employment for such employer shall be charged to his or her reimbursement account and such employer shall be billed for and shall be liable for the payment of the amount charged when billed by the commissioner. Payments in lieu of contributions received by the commissioner on behalf of each such employer shall be credited to such employer's reimbursement account, and two or more employers who are liable for payments in lieu of contributions may jointly apply to the commissioner for establishment of a group account for the purpose of sharing the cost of benefits paid that are attributable to service in the employ of such employers. The commissioner shall prescribe such rules and regulations as he or she deems necessary with respect to applications for establishment, maintenance, and termination of group accounts authorized by this subdivision.

(2) All contributions paid by an employer shall be credited to the experience account of such employer. In addition to such credits, each employer's account shall be credited as of June 30 of each calendar year with interest at a rate determined by the commissioner based on the

average annual interest rate paid by the Secretary of the Treasury of the United States of America upon the account of the Nebraska Unemployment Trust Fund for the preceding calendar year multiplied by the balance in his or her experience account at the beginning of such calendar year. Should the total credits as of such date to all employers' experience accounts be equal to or greater than ninety percent of the total amount in the Unemployment Compensation Fund, no interest shall be credited for that year to any employer's account. Contributions with respect to prior years which are received on or before January 31 of any year shall be considered as having been paid at the beginning of the calendar year. All voluntary contributions which are received on or before March 10 of any year shall be considered as having been paid at the beginning of the calendar year.

(3)(a) Each experience account shall be charged only for benefits based upon wages paid by such employer. No benefits shall be charged to the experience account of any employer if such benefits were paid on the basis of a period of employment from which the claimant has left work voluntarily without good cause or employment from which he or she has been discharged for misconduct connected with his or her work and concerning which separation the employer has filed timely notice of the facts on which such exemption is claimed in accordance with rules and regulations prescribed by the commissioner, and no benefits shall be charged to the experience account of any employer if such benefits were paid on the basis of wages paid in the base period that are wages for insured work solely by reason of subdivision (e)(2) of section 48-627. (b) Each reimbursement account shall be charged only for benefits paid that were based upon wages paid by such employer in the base period that were wages for insured work solely by reason of subdivision (e)(1) of section 48-627. (c) Benefits paid to an eligible individual shall be charged against the account of his or her most recent employers within his or her base period against whose accounts the maximum charges hereunder have not previously been made in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer, other than an employer for which services in employment as provided in subdivision (4)(a) of section 48-604 are performed, shall not exceed the total benefit amount to which such individual was entitled as set out in section 48-626 with respect to base period wages of such individual paid by such employer plus one-half the amount of extended benefits paid to such eligible individual with respect to base period wages of such individual paid by such employer. The commissioner shall by rules and regulations prescribe the manner in which benefits shall be charged against the account of several employers for whom an individual performed employment during the same quarter or during the same base period. Any benefit check duly issued and delivered or mailed to a claimant and not presented for payment within one year from the date of its issue may be invalidated and the amount thereof credited to the Unemployment Compensation Fund, except that a substitute check may be issued and charged to the fund on proper showing

at any time within the year next following. Any charge made to an employer's account for any such invalidated check shall stand as originally made.

(4)(a) An employer's experience account shall be deemed to be terminated one calendar year after such employer has ceased to be subject to the Employment Security Law, except that if the commissioner finds that an employer's business is closed solely because of the entrance of one or more of the owners, officers, ~~or~~ partners, or members or the majority stockholder into the armed forces of the United States, or of any of its allies, after July 1, 1950, such employer's account shall not be terminated and, if the business is resumed within two years after the discharge or release from active duty in the armed forces of such person or persons, the employer's experience account shall be deemed to have been continuous throughout such period.

(b) An experience account terminated pursuant to this subsection shall be reinstated if (i) the employer becomes subject again to the Employment Security Law within one calendar year after termination of such experience account and the employer makes a written application for reinstatement of such experience account to the commissioner within two calendar years after termination of such experience account and (ii) the commissioner finds that the employer is operating substantially the same business as prior to the termination of such experience account.

(5) All money in the Unemployment Compensation Fund shall be kept mingled and undivided. The payment of benefits to an individual shall in no case be denied or withheld because the experience account of any employer does not have a total of contributions paid in excess of benefits charged to such experience account.

(6) A contributory or reimbursable employer shall be relieved of charges if the employer was previously charged for wages and the same wages are being used a second time to establish a new claim as a result of the October 1, 1988, change in the base period.

Sec. 293. That section 48-658, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-658. Any person, group of individuals, partnership, limited liability company, corporation, or employer which acquires the organization, trade, or business or substantially all the assets thereof of an employer; shall notify the commissioner thereof in writing by registered or certified mail not later than five days prior to the acquisition. Unless such notice is given such acquisition shall be void as against the commissioner; if, at the time of the acquisition, any contributions are due and unpaid by the previous employer. The commissioner shall have the right to proceed against such person, group of individuals, partnership, limited liability company, corporation, or employer and the assets so acquired.

Sec. 294. That section 48-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-801. As used in the Industrial Relations Act, unless the context otherwise requires:

(1) Person shall include an individual, partnership, limited liability company, association, corporation, business trust, or ~~any~~ other organized group of persons;

(2) Governmental service shall mean all services performed under employment by the State of Nebraska, any political or governmental subdivision thereof, any municipal corporation, or any public power district or public power and irrigation district;

(3) Public utility shall include any individual, partnership, limited liability company, association, corporation, business trust, or ~~any~~ other organized group of persons, any political or governmental subdivision of the State of Nebraska, any public corporation, or any public power district or public power and irrigation district, which carries on an intrastate business in this state and over which the government of the United States has not assumed exclusive regulation and control, that furnishes transportation for hire, telephone service, telegraph service, electric light, heat and power service, gas for heating or illuminating, whether natural or artificial, or water service, or any one or more thereof;

(4) Employer shall mean the State of Nebraska or any political or governmental subdivision of the State of Nebraska; except the Nebraska National Guard or state militia. Employer shall also mean any municipal corporation, any public power district or public power and irrigation district, or any public utility;

(5) Employee shall include any person employed by any employer;

(6) Labor organization shall mean any organization of any kind; or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;

(7) Industrial dispute shall include any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, or refusal to discuss terms or conditions of employment;

(8) Commission shall mean the Commission of Industrial Relations; and

(9) Supervisor shall mean any employee having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not a merely routine or clerical nature, but requires the use of independent judgment.

Sec. 295. That section 48-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-902. As used in sections 48-901 to 48-912, unless the context otherwise requires:

(1) Labor organization shall mean any organization,

association, or group of any kind, or any agency or employee representation committee or plan, whether incorporated or unincorporated, which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work;

(2) Labor dispute shall mean any controversy between an employer and the majority of his or her employees concerning the right or process or details of collective bargaining or the designation of an employee representative. Any organization with which either the employer or such majority is affiliated may be considered a party to the labor dispute;

(3) Employer shall mean a person who engages the services of an employee, and includes any person acting on behalf of an employer within the scope of his or her authority, express or implied, but shall not include the state or any political subdivision thereof, or any labor organization or anyone acting in behalf of such organization other than when it is acting as an employer in fact;

(4) Person shall include one or more individuals, partnerships, limited liability companies, associations, corporations, legal representatives, trustees, or receivers; and

(5) Secondary boycott shall mean combining or conspiring to cause or threaten to cause injury to one with whom no labor dispute exists, whether by (a) withholding patronage, labor, or other beneficial business intercourse, or by intentionally and unreasonably hindering or delaying the same, (b) picketing, (c) refusing to handle, install, use, or work on particular materials, equipment, or supplies, (d) hindering or preventing, by threats, intimidation, force, coercion or sabotage, the obtaining, use, or disposition of materials, equipment, or services, or (e) by any other unlawful means, in order to bring him or her against his or her will into a concerted plan to coerce or inflict damage upon another.

Sec. 296. That section 48-1002, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1002. As used in sections 48-1001 to 48-1010, unless the context otherwise requires:

(1) Person shall include one or more individuals, partnerships, limited liability companies, associations, labor organizations, corporations, business trusts, legal representatives, or any organized group of persons;

(2) Employer shall mean any person having in his or her employ twenty-five or more individuals; and includes the State of Nebraska, governmental agencies, and political subdivisions, regardless of the number of employees, any person acting for or in the interest of an employer, directly or indirectly, and any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act; but such term shall not include (a) the United States or (b) a corporation wholly owned by the government of the United States;

(3) Labor organization shall mean any organization of employees which exists for the purpose, in whole or in part, of collective

bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment;

(4) Employee shall mean an individual employed by any employer; and

(5) Employment agency shall mean any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person, † but shall not include an agency of the United States, except that such term shall include the United States Employment Service and the system of state and local employment services receiving federal assistance.

Sec. 297. That section 48-1102, Revised Statutes Supplement, 1992, be amended to read as follows:

48-1102. As used in the Nebraska Fair Employment Practice Act, unless the context otherwise requires:

(1) Person shall include one or more individuals, labor unions, partnerships, limited liability companies, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers;

(2) Employer shall mean a person engaged in an industry who has fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, any agent of such a person, and any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act and shall include the State of Nebraska, governmental agencies, and political subdivisions, regardless of the number of employees, but such term shall not include (a) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe or (b) a bona fide private membership club, other than a labor organization, which is exempt from taxation under section 501(c) of the Internal Revenue Code of 1954;

(3) Labor organization shall mean any organization which exists wholly or in part for one or more of the following purposes: Collective bargaining; dealing with employers concerning grievances, terms, or conditions of employment; or mutual aid or protection in relation to employment;

(4) Employment agency shall mean any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and shall include an agent of such a person but shall not include an agency of the United States, except that such term shall include the United States Employment Service and the system of state and local employment services receiving federal assistance;

(5) Privileges of employment shall mean terms and conditions of any employer-employee relationship, opportunities for advancement of employees, and plant conveniences;

(6) Employee shall mean an individual employed by an

employer;

(7) Commission shall mean the Equal Opportunity Commission;

(8) Disability shall mean any physical or mental condition, infirmity, malformation, or disfigurement which is caused by bodily injury, birth defect, or illness, including epilepsy or seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a dog guide, wheelchair, or other remedial appliance or device and shall also mean the physical or mental condition of a person which constitutes a substantial handicap, as determined by a physician, but does not reasonably preclude a person's ability to engage in a particular occupation. Disability shall not include an addiction to alcohol, controlled substances, or gambling which is currently being practiced by the employee. For purposes of this subdivision, does not reasonably preclude shall mean that an employer shall not be subject to more than a de minimis expense;

(9) Marital status shall mean the status of a person whether married or single;

(10) Because of sex or on the basis of sex shall include, but not be limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and

(11) Unlawful under federal law or the laws of this state shall mean acting contrary to or in defiance of the law or disobeying or disregarding the law.

Sec. 298. That section 48-1202, Revised Statutes Supplement, 1992, be amended to read as follows:

48-1202. For purposes of the Wage and Hour Act, unless the context otherwise requires:

(1) Employ shall include to permit to work;

(2) Employer shall include any individual, partnership, limited liability company, association, corporation, business trust, legal representative, or organized group of persons employing four or more employees at any one time except for seasonal employment of not more than twenty weeks in any calendar year, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States, the state, or any political subdivision thereof;

(3) Employee shall include any individual employed by any employer but shall not include:

(a) Any individual employed in agriculture;

(b) Any individual employed as a babysitter in or about a private home;

(c) Any individual employed in a bona fide executive, administrative, or professional capacity or as a superintendent or supervisor;

(d) Any individual employed by the United States or by the state or any political subdivision thereof;

(e) Any individual engaged in the activities of an educational, charitable, religious, or nonprofit organization when the employer-employee relationship does not in fact exist or when the services rendered to such organization are on a voluntary basis;

(f) Apprentices and learners otherwise provided by law;

(g) Veterans in training under supervision of the United States Department of Veterans Affairs;

(h) A child in the employment of his or her parent or a parent in the employment of his or her child; or

(i) Any person who, directly or indirectly, is receiving any form of federal, state, county, or local aid or welfare and who is physically or mentally disabled and employed in a program of rehabilitation, who shall receive a wage at a level consistent with his or her health, efficiency, and general well-being;

(4) Occupational classification shall mean a classification established by the Dictionary of Occupational Titles prepared by the United States Department of Labor; and

(5) Wages shall mean all remuneration for personal services, including commissions and bonuses and the cash value of all remunerations in any medium other than cash.

Sec. 299. That section 48-1220, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1220. As used in sections 48-1219 to 48-1227.01, unless the context otherwise requires:

(1) Employee shall mean any individual employed by an employer, including individuals employed by the state or any of its political subdivisions including public bodies;

(2) Employer shall mean any person engaged in an industry who has twenty-five or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, any agent of such person, and any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act, and includes the State of Nebraska, its governmental agencies, and political subdivisions, regardless of the number of employees, but such term shall not include the United States, a corporation wholly owned by the government of the United States, or an Indian tribe;

(3) Wage rate shall mean all compensation for employment including payment in kind and amounts paid by employers for employee benefits as defined by the commission in regulations issued under sections 48-1219 to 48-1227;

(4) Employ shall include to suffer or permit to work;

(5) Commission shall mean the Equal Opportunity Commission; and

(6) Person shall include one or more individuals, partnerships, limited liability companies, corporations, legal representatives, trustees, trustees in bankruptcy, or voluntary associations.

Sec. 300. That section 48-1229, Revised Statutes Supplement, 1992, be amended to read as follows:

48-1229. For purposes of the Nebraska Wage Payment and Collection Act, unless the context otherwise requires:

(1) Employer shall mean any individual, partnership, limited liability company, association, joint-stock company, trust, corporation, political subdivision, or personal representative of the estate of a deceased individual, or the receiver, trustee, or successor thereof, within or without the state, employing any person within the state as an employee, except that employer shall not be construed to include the state;

(2) Employee shall mean any individual permitted to work by an employer pursuant to an employment relationship or who has contracted to sell the goods of an employer and to be compensated by commission. Services performed by an individual for an employer shall be deemed to be employment, unless it is shown that (a) such individual has been and will continue to be free from control or direction over the performance of such services, both under his or her contract of service and in fact, (b) such service is either outside the usual course of business for which such service is performed or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) such individual is customarily engaged in an independently established trade, occupation, profession, or business. This subdivision is not intended to be a codification of the common law and shall be considered complete as written;

(3) Fringe benefits shall include sick and vacation leave plans, disability income protection plans, retirement, pension, or profit-sharing plans, health and accident benefit plans, and any other employee benefit plans or benefit programs regardless of whether the employee participates in such plans or programs; and

(4) Wages shall mean compensation for labor or services rendered by an employee, including fringe benefits, when previously agreed to and conditions stipulated have been met by the employee, whether the amount is determined on a time, task, fee, commission, or other basis. Wages shall include commissions on all orders delivered and all orders on file with the employer at the time of termination of employment less any orders returned or canceled at the time suit is filed.

Sec. 301. That section 48-1702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1702. For purposes of the Farm Labor Contractors Act, unless the context otherwise requires:

(1) Department shall mean the Department of Labor;

(2) Farm labor contractor shall mean any individual, partnership, limited liability company, corporation, or cooperative association, other than an agricultural employer, an agricultural association, or an employee of an agricultural employer or agricultural association, who for any money or other valuable consideration paid or promised to be paid performs any farm labor contracting activity;

(3) Farm labor contracting activity shall mean recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal agricultural worker; and

(4) Worker shall mean a person who is employed or recruited by or who subcontracts with a farm labor contractor.

Sec. 302. That section 48-1704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1704. (1) Except as otherwise provided by the Farm Labor Contractors Act, no person shall act as a farm labor contractor and engage in farm labor contracting activity unless such person holds a valid license issued by the department.

(2) Farm labor contractor licenses may be issued by the department only as follows:

(a) To an individual operating as a sole proprietor under the person's own name or under an assumed business name registered with the state;

(b) To two or more individuals operating as a partnership under their own names or under an assumed business name registered with the state; and

(c) To a corporation, limited liability company, or cooperative association authorized to do business in Nebraska.

(3) An application for a license as a farm labor contractor shall be sworn to by the applicant and shall be written on a form prescribed by the department. The form shall include, but not be limited to, the following:

(a) The applicant's name and Nebraska address and all other temporary and permanent addresses the applicant uses or knows will be used in the future;

(b) Information on all motor vehicles to be used by the applicant in operations as a farm labor contractor, including the license number and state of licensure, the vehicle number, and the name and address of the vehicle owner for all vehicles used for farm labor contracting activity;

(c) Whether or not the applicant was ever denied a license under the Farm Labor Contractors Act or in any other jurisdiction under a similar law or had such a license revoked or suspended; and

(d) The names and addresses of all persons financially interested, whether as partners, members, shareholders, associates, or profit sharers in the applicant's proposed operations as a farm labor contractor, together with the amount of their respective interests, and whether or not, to the best of the applicant's knowledge, any of such persons was ever denied a license under the act or in any other jurisdiction or had such a license revoked or suspended.

Sec. 303. That section 49-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-801. Unless the context is shown to intend otherwise, words and phrases in the statutes of Nebraska hereafter enacted are used in the following sense:

(1) Acquire when used in connection with a grant of power or property right to any person shall include the purchase, grant, gift, devise, bequest, and ~~the~~ obtaining by eminent domain;

- state;
- (2) Action shall include any proceeding in any court of this state;
- (3) Attorney shall mean attorney at law;
- (4) Company shall include any corporation, partnership, limited liability company, joint-stock company, joint venture, or association;
- (5) Domestic when applied to corporations shall mean all those created by authority of this state;
- (6) Federal shall refer to the United States;
- (7) Foreign when applied to corporations shall include all those created by authority other than that of this state;
- (8) Grantee shall include every person to whom any estate or interest passes in or by any conveyance;
- (9) Grantor shall include every person from or by whom any estate or interest passes in or by any conveyance;
- (10) Inhabitant shall be construed to mean a resident in the particular locality in reference to which that word is used;
- (11) Land or real estate shall include lands, tenements, and hereditaments and all rights thereto and interest therein; other than a chattel interest;
- (12) Magistrate shall include judge of the county court and clerk magistrate;
- (13) Month shall mean calendar month;
- (14) Oath shall include affirmation in all cases in which an affirmation may be substituted for an oath;
- (15) Peace officer shall include sheriffs, coroners, jailers, marshals, police officers, state highway patrol officers, members of the National Guard on active service by direction of the Governor during periods of emergency, and all other persons with similar authority to make arrests;
- (16) Person shall include bodies politic and corporate, societies, communities, the public generally, individuals, partnerships, limited liability companies, joint-stock companies, and associations;
- (17) Personal estate shall include money, goods, chattels, claims, and evidences of debt;
- (18) Process shall mean a summons, subpoena, or notice to appear issued out of a court in the course of judicial proceedings;
- (19) State when applied to different states of the United States shall be construed to extend to and include the District of Columbia and the several territories organized by Congress;
- (20) Sworn shall include affirmed in all cases in which an affirmation may be substituted for an oath;
- (21) The United States shall include territories, outlying possessions, and the District of Columbia;
- (22) Violate shall include failure to comply with;
- (23) Writ shall signify an order or citation in writing issued in the name of the state out of a court or by a judicial officer; and
- (24) Year shall mean calendar year.

Sec. 304. That section 49-1407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1407. Business shall mean any corporation, partnership, limited liability company, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint-stock company, receivership, trust, activity, or entity.

Sec. 305. That section 49-1408, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1408. Business with which the individual is associated or business association shall mean a business: (1) In which the individual is a partner, member, director, or officer; or (2) in which the individual or a member of the individual's immediate family is a stockholder of closed corporation stock worth one thousand dollars or more at fair market value or which represents more than a five percent equity interest; or is a stockholder of publicly traded stock worth ten thousand dollars or more at fair market value or which represents more than ten percent equity interest. An individual who occupies a confidential professional relationship protected by law shall be exempt from this section. This section shall not apply to publicly traded stock under a trading account if the filer reports the name and address of the stockbroker.

Sec. 306. That section 49-1438, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1438. Person shall mean a business, individual, proprietorship, firm, partnership, limited liability company, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or ~~any~~ other organization or group of persons acting jointly.

Sec. 307. That section 49-1496, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1496. (1) The statement of financial interests filed pursuant to sections 49-1493 to 49-14,104 shall be on a form prescribed by the commission.

(2) Individuals required to file under sections 49-1493 to 49-1495 shall file the following information for themselves:

(a) The name and address of and the nature of association with any business with which the individual was associated and any entity in which a position of trustee was held during the preceding year;

(b) The name, address, and nature of business of a person, including a government, political subdivision, or body corporate, from whom any income in the value of one thousand dollars or more was received during the preceding year and the nature of the services rendered. If income results from employment by, operation of, or participation in a proprietorship, ~~or~~ partnership, limited liability company, ~~or~~ professional corporation or business or nonprofit corporation, or other person, the person may list the proprietorship, ~~or~~ partnership, limited liability company, ~~or~~ professional corporation or business or nonprofit corporation, or other person as the source and not the patrons, customers, patients, or clients of the proprietorship, ~~or~~ partnership, limited liability

company, or professional corporation or business or nonprofit corporation, or other person;

(c) A description, but not the value, of the following, if the fair market value thereof exceeded one thousand dollars: The nature and location of all real property in the state, except the residence of the individual; the depository of checking accounts and savings accounts; the issuer of stocks, bonds, and government securities; and a description of all other property owned or held for the production of income, except property owned or used by a business with which the individual was associated;

(d) The name and address of each creditor to whom the value of one thousand dollars or more was owed or guaranteed by the filer or a member of the filer's immediate family. Accounts payable, debts arising out of retail installment transactions or from loans made by financial institutions in the ordinary course of business, loans from a relative, and land contracts that have been properly recorded with the county clerk or the register of deeds need not be included;

(e) The name, address, and occupation or nature of business of any person from whom a gift in the value of more than one hundred dollars was received and the circumstances of each gift. The definition of gift is as set forth in section 49-1423; and

(f) Such other information as the person required to file the statement or the commission deems necessary, after notice and hearing, to carry out the purposes of ~~sections 49-1401 to 49-14,138~~ the Nebraska Political Accountability and Disclosure Act.

Sec. 308. That section 49-1546, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

49-1546. The short form expression, General Power for Business Interests, shall mean that the principal, in connection with or with respect to any corporate or other bond, stock, warrant, or other security, any general, limited, or other partnership interest, any limited liability company interest, or any sole proprietorship or similar endeavor or enterprise, whether or not any of them is specifically described or named, generally authorizes and empowers the agent to have and to exercise collectively or singly and concurrently or consecutively any one or more in combination or otherwise of each of Specific Authority for Acquisitions, Specific Authority for Ancillary Matters, Specific Authority for Assistants, Specific Authority for Claims, Specific Authority for Compensation, Specific Authority for Contracts, Specific Authority for Disclosure, Names, and Signatures, Specific Authority for Dispositions, Specific Authority for Documents, Specific Authority for Encumbrances, Specific Authority for Improvements, Specific Authority for Insolvency Proceedings, Specific Authority for Investments, Specific Authority for Proceeds, Specific Authority for Reimbursements, Specific Authority for Reorganizations, Specific Authority for Reports, Specific Authority for Taxes, and Specific Authority for Trusts, and that the principal also generally authorizes and empowers the agent to acquire, act as director, officer, member, partner, or otherwise of, enforce or make terms of

agreement or other contract for, participate financially or otherwise in, or terminate in part or whole any participation in any corporation, partnership, limited liability company, or other business or investment entity, to alter in part or whole, contract, expand, initiate, operate, organize, reorganize, or terminate in part or whole and change, determine, and effectuate business, employment, financial, investment, and other policies and procedures of any sole proprietorship or similar business or investment endeavor or enterprise, to exercise in person, by limited or unrestricted proxy, or otherwise, any voting right or other power, privilege, right, or other concession of any corporation, fund, partnership, or other business or investment entity, and otherwise generally to act or decide as to any business interest or related circumstances, condition, interest, matter, property, question, or transaction as the principal might do or omit to do in person and while competent.

Sec. 309. That section 52-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-801. Any garment, clothing, wearing apparel, or household goods; on which cleaning, pressing, glazing, or washing has been done, upon which alterations or repairs have been made, or on which materials or supplies have been used or furnished, remaining in the possession of a person, firm, partnership, limited liability company, or corporation for a period of ninety days or more, may be sold to pay the reasonable or agreed charges and the costs of notifying the owner or owners. ~~The ; PROVIDED, HOWEVER, that the~~ person, firm, partnership, limited liability company, or corporation; to whom such charges are payable and owing; shall first notify the owner or owners of the time and place of such sale. Property ; PROVIDED FURTHER; ~~that property~~ that is to be placed in storage; after any of the services or labors mentioned in this section ~~herein~~; shall not be affected by the provisions of this section.

Sec. 310. That section 52-802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-802. All garments, clothing, wearing apparel, or household goods placed in storage or on which any of the services or labors mentioned in section 52-801 have been performed and then placed in storage by agreement and remaining in the possession of a person, firm, partnership, limited liability company, or corporation; without the reasonable or agreed charges having been paid for a period of twelve months; may be sold to pay ~~said the~~ charges. ~~The ; PROVIDED;~~ ~~that the~~ person, firm, partnership, limited liability company, or corporation; to whom the charges are payable; shall first notify the owner or owners thereof of the time and place of such sale. Persons, ; PROVIDED, HOWEVER, that persons; firms, partnerships, limited liability company, or corporations operating as warehouses or warehousemen shall not be affected by this section.

Sec. 311. That section 52-803, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-803. The posting or mailing of either a registered or

certified letter, with a return address marked thereon, addressed to the owner or owners at his, her, its, or their address, given at the time of the delivery of the article or articles to a person, firm, partnership, limited liability company, or corporation to render any of the services or labors as set out in sections 52-801 to 52-806, stating the time and place of sale, shall constitute notice under ~~the provisions of such sections. The 52-801 to 52-806.~~ ~~Said~~ notice shall be posted or mailed at least thirty days before the date of sale. The costs of posting or mailing ~~said~~ the letter shall be added to the charges.

Sec. 312. That section 52-804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-804. The person, firm, partnership, limited liability company, or corporation; to whom the charges are payable; shall (a) deduct the charges due plus the costs of notifying the owner and the costs, if any, of publishing the notice of sale from the proceeds of such sale, (b) hold the overplus, if any, subject to the order of the owner, (c) immediately thereafter mail to the owner or owners thereof at such owner's or owners' address, if known, a notice stating ~~said~~ the sale has been had, and (d) the amount of overplus, if any, due such owner or owners and, at any time within twelve months, upon demand by the owner or owners pay to the owner or owners ~~said~~ the balance or overplus in the hands of such person, firm, partnership, limited liability company, or corporation.

Sec. 313. That section 52-805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-805. All persons, firms, partnerships, limited liability companies, or corporations; taking advantage of sections 52-801 to 52-806; must keep posted at all times; in a prominent place in their receiving office or offices; two notices which shall read as follows: All articles cleaned, pressed, glazed, laundered, washed, altered, or repaired and not called for in ninety days will be sold to pay charges. All articles; which are stored by agreement and upon which the charges are not paid for twelve months; will be sold to pay charges.

Sec. 314. That section 52-1001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-1001. (1) Notices of liens upon real property for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the register of deeds of the county in which the real property subject to the liens is situated.

(2) Notices of federal liens upon personal property, whether tangible or intangible, for obligations payable to the United States and certificates and notices affecting the liens shall be filed in the office of the register of deeds of the county where the person against whose interest the lien applies resides at the time of filing the notice of lien or, if the person against whose interest the lien applies is a corporation, ~~or~~ a partnership, or a limited liability company, in the office of the register of deeds of the county where the principal executive office in this state is located.

Sec. 315. That section 52-1309, Reissue Revised Statutes

of Nebraska, 1943, be amended to read as follows:

52-1309. Person shall mean any individual, partnership, limited liability company, corporation, trust, or ~~any~~ other business entity.

Sec. 316. That section 52-1401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

52-1401. As used in sections 52-1401 to 52-1411, unless the context otherwise requires:

(1) Agricultural chemical shall mean a fertilizer or agricultural chemical which is applied to crops or land which is used for the raising of crops;

(2) Feed shall mean a commercial feed, a feed ingredient, a mineral feed, a drug, an animal health product, or a customer-formula feed which is used for the feeding of livestock;

(3) Petroleum product shall mean motor fuel, oil, grease, propane, and special fuel which is used in the production of crops and livestock;

(4) Seed shall mean agricultural seed which is used in the production of crops;

(5) Electricity shall mean electrical energy which is used in the production of crops and livestock;

(6) Labor shall mean labor performed in the application, delivery, or preparation of a product defined in subdivisions (1) ~~to~~ through (4) of this section;

(7) Person shall mean an individual, partnership, limited liability company, corporation, company, cooperative, society, or association;

(8) Lender shall mean a person in the business of lending money identified in a lien-notification statement;

(9) Letter of commitment shall mean a binding, irrevocable, and unconditional agreement by a lender to honor drafts or other demands for payment upon the supplier presenting invoices signed by the purchaser or other proof of delivery; and

(10) Agricultural production input shall mean any agricultural chemical, feed, seed, petroleum product, electricity, or labor used in preparing the land for planting, cultivating, growing, producing, harvesting, drying, and storing crops or crop products or for feeding, producing, or delivering livestock.

Sec. 317. That section 53-103, Revised Statutes Supplement, 1992, be amended to read as follows:

53-103. For purposes of the Nebraska Liquor Control Act, unless the context otherwise requires:

(1) This act shall be construed as referring exclusively to such act;

(2) Alcohol shall mean the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and shall include synthetic ethyl alcohol. Alcohol shall not include denatured alcohol or wood alcohol;

(3) Spirits shall mean any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and shall include brandy, rum, whiskey, gin, or other spirituous liquors and such liquors when rectified, blended, or otherwise mixed with alcohol or other substances;

(4) Wine shall mean any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits;

(5) Beer shall mean a beverage obtained by alcoholic fermentation of an infusion or concoction of barley or other grain, malt, and hops in water and shall include, but not be limited to, beer, ale, stout, lager beer, porter, and near beer;

(6) Alcoholic liquor shall include alcohol, spirits, wine, beer, and any liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being. Alcoholic liquor shall also include confections or candy with alcohol content of more than one-half of one percent alcohol. The act shall not apply to (a) alcohol used in the manufacture of denatured alcohol produced in accordance with acts of Congress and regulations adopted and promulgated pursuant to such acts, (b) flavoring extracts, syrups, medicinal, mechanical, scientific, culinary, or toilet preparations, or food products unfit for beverage purposes, but the act shall apply to alcoholic liquor used in the manufacture, preparation, or compounding of such products or confections or candy that contains more than one-half of one percent alcohol, or (c) wine intended for use and used by any church or religious organization for sacramental purposes;

(7) Near beer shall mean beer containing less than one-half of one percent of alcohol by volume;

(8) Original package shall mean any bottle, flask, jug, can, cask, barrel, keg, hogshead, or other receptacle or container used, corked or capped, sealed, and labeled by the manufacturer of alcoholic liquor to contain and to convey any alcoholic liquor;

(9) Manufacturer shall mean every brewer, fermenter, distiller, rectifier, winemaker, blender, processor, bottler, or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying, or bottling alcoholic liquor, including a wholly owned affiliate or duly authorized agent for a manufacturer;

(10) Nonbeverage user shall mean every manufacturer of any of the products set forth and described in subsection (4) of section 53-160, when such product contains alcoholic liquor, and all laboratories, hospitals, and sanatoria using alcoholic liquor for nonbeverage purposes;

(11) Manufacture shall mean to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle, or fill an original package with any alcoholic liquor and shall include blending but shall not include the mixing or other preparation of drinks for serving by those persons authorized and permitted in the act to serve drinks for consumption on the premises where sold;

(12) Wholesaler shall mean a person importing or causing to be imported into the state or purchasing or causing to be purchased within the state alcoholic liquor for sale or resale to retailers licensed under the act, whether the business of the wholesaler is conducted under the terms of a franchise or any other form of an agreement with a manufacturer or manufacturers, or who has caused alcoholic liquor to be imported into the state or purchased in the state from a manufacturer or manufacturers and was licensed to conduct such a business by the commission on May 1, 1970, or has been so licensed since that date. Wholesaler shall not include any retailer licensed to sell alcoholic liquor for consumption off the premises who sells alcoholic liquor other than beer or wine to another retailer pursuant to section 53-175, except that any such retailer shall obtain the required federal wholesaler's basic permit and federal wholesale liquor dealer's special tax stamp. Wholesaler shall include a distributor, distributorship, and jobber;

(13) Person shall mean any natural person, trustee, corporation, ~~or partnership, or limited liability company;~~

(14) Retailer shall mean a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form except as provided in section 53-175;

(15) Sell at retail and sale at retail shall mean sale for use or consumption and not for resale in any form except as provided in section 53-175;

(16) Commission shall mean the Nebraska Liquor Control Commission;

(17) Sale shall mean any transfer, exchange, or barter in any manner or by any means for a consideration and shall include any sale made by any person, whether principal, proprietor, agent, servant, or employee;

(18) To sell shall mean to solicit or receive an order for, to keep or expose for sale, or to keep with intent to sell;

(19) Restaurant shall mean any public place (a) which is kept, used, maintained, advertised, and held out to the public as a place where meals are served and where meals are actually and regularly served, (b) which has no sleeping accommodations, and (c) which has adequate and sanitary kitchen and dining room equipment and capacity and a sufficient number and kind of employees to prepare, cook, and serve suitable food for its guests;

(20) Club shall mean a corporation (a) which is organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquor, (b) which is kept, used, and maintained by its members through the payment of annual dues, (c) which owns, hires, or leases a building or space in a building suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests, and (d) which has suitable and adequate kitchen and dining room space and equipment and a sufficient number of servants and employees for cooking, preparing, and serving food and meals for its members and their

guests. Such club shall file with the local governing body at the time of application for a license under the act two copies of a list of names and residences of its members and similarly shall file within ten days of the election of any additional member his or her name and address. The affairs and management of such club shall be conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting, and no member, officer, agent, or employee of the club shall be paid or shall directly or indirectly receive, in the form of salary or other compensation, any profits from the distribution or sale of alcoholic liquor to the club or the members of the club or its guests introduced by members other than any salary fixed and voted at any annual meeting by the members or by the governing body of the club out of the general revenue of the club;

(21) Hotel shall mean any building or other structure (a) which is kept, used, maintained, advertised, and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent, or residential, (b) in which twenty-five or more rooms are used for the sleeping accommodations of such guests, and (c) which has one or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same buildings in connection therewith and such building or buildings or structure or structures being provided with adequate and sanitary kitchen and dining room equipment and capacity;

(22) Nonprofit corporation shall mean any corporation organized under the laws of this state, not for profit, which has been exempted from the payment of federal income taxes;

(23) Bottle club shall mean an operation, whether formally organized as a club having a regular membership list, dues, officers, and meetings or not, keeping and maintaining premises where persons who have made their own purchases of alcoholic liquor congregate for the express purpose of consuming such alcoholic liquor upon the payment of a fee or other consideration, including among other services the sale of food, ice, mixes, or other fluids for alcoholic drinks and the maintenance of space for the storage of alcoholic liquor belonging to such persons and facilities for the dispensing of such liquor through a locker system, card system, or pool system, which shall not be deemed or considered a sale of alcoholic liquor. Such operation may be conducted by a club, an individual, a partnership, a limited liability company, or a corporation. An accurate and current membership list shall be maintained upon the premises which contains the names and residences of its members. Nothing in this section shall be deemed to prohibit the sale of alcoholic liquor for consumption on the premises to any person who is not a current member of such bottle club;

(24) Minor shall mean any person, male or female, under twenty-one years of age, regardless of marital status;

(25) Brand shall mean alcoholic liquor identified as the product of a specific manufacturer;

(26) Franchise or agreement, with reference to the relationship between a manufacturer and wholesaler, shall include one or more of the following: (a) A commercial relationship of a definite duration or continuing indefinite duration which is not required to be in writing; (b) a relationship by which the wholesaler is granted the right to offer and sell the manufacturer's brands by the manufacturer; (c) a relationship by which the franchise, as an independent business, constitutes a component of the manufacturer's distribution system; (d) a relationship by which the operation of the wholesaler's business is substantially associated with the manufacturer's brand, advertising, or other commercial symbol designating the manufacturer; and (e) a relationship by which the operation of the wholesaler's business is substantially reliant on the manufacturer for the continued supply of beer;

(27) Territory or sales territory shall mean the wholesaler's area of sales responsibility for the brand or brands of the manufacturer;

(28) Suspend shall mean to cause a temporary interruption of all rights and privileges of a license;

(29) Cancel shall mean to discontinue all rights and privileges of a license;

(30) Revoke shall mean to permanently void and recall all rights and privileges of a license;

(31) Generic label shall mean a label which is not protected by a registered trademark, either in whole or in part, or to which no person has acquired a right pursuant to state or federal statutory or common law;

(32) Private label shall mean a label which the purchasing wholesaler, retailer, or bottle club licensee has protected, in whole or in part, by a trademark registration or which the purchasing wholesaler, retailer, or bottle club licensee has otherwise protected pursuant to state or federal statutory or common law;

(33) Farm winery shall mean any enterprise which produces and sells wines produced from grapes, other fruit, or other suitable agricultural products of which at least seventy-five percent is grown in this state;

(34) Campus, as it pertains to the southern boundary of the main campus of the University of Nebraska-Lincoln, shall mean the south right-of-way line of R Street and abandoned R Street from 10th to 17th streets;

(35) Brewpub shall mean any restaurant or hotel which produces on its premises a maximum of five thousand barrels of beer per year for sale at retail for consumption on the licensed premises and which sells not more than ten percent of its annual production for consumption off the premises;

(36) Manager shall mean a person appointed by a corporation to oversee the daily operation of the business licensed in Nebraska. A manager shall meet all the requirements of the act as though he or she were the applicant, except for residency and citizenship; and

(37) Shipping license shall mean a license granted pursuant

to section 53-123.15.

Sec. 318. That section 53-110, Revised Statutes Supplement, 1992, be amended to read as follows:

53-110. No person shall be appointed as a commissioner, the executive director of the commission, or an employee of the commission who is not a citizen of the United States and who has not resided within the State of Nebraska successively for two years next preceding the date of his or her appointment. No person (1) convicted of or who has pleaded guilty to a felony or any violation of any federal or state law concerning the manufacture or sale of alcoholic liquor prior or subsequent to the passage of the Nebraska Liquor Control Act, (2) who has paid a fine or penalty in settlement of any prosecution against him or her for any violation of such laws, or (3) who has forfeited his or her bond to appear in court to answer charges for any such violation shall be appointed commissioner. No commissioner or employee of the commission may, directly or indirectly, individually, as a member of a partnership, as a member of a limited liability company, or as a shareholder of a corporation, have any interest whatsoever in the manufacture, sale, or distribution of alcoholic liquor, receive any compensation or profit from such manufacture, sale, or distribution, or have any interest whatsoever in the purchases or sales made by the persons authorized by the act to purchase or to sell alcoholic liquor. This section shall not prevent any commissioner, the executive director, or any employee from purchasing and keeping in his or her possession for the use of himself, herself, or members of his or her family or guests any alcoholic liquor which may be purchased or kept by any person pursuant to the act.

Sec. 319. That section 53-125, Revised Statutes Supplement, 1992, be amended to read as follows:

53-125. No license of any kind shall be issued to (1) a person who is not a resident of the county in which the premises covered by the license are located, except in case of railroad, airline, or boat licenses, (2) a person who is not of good character and reputation in the community in which he or she resides, (3) a person who is not a citizen of the United States, (4) a person who has been convicted of or has pleaded guilty to a felony under the laws of this state, any other state, or the United States, (5) a person who has been convicted of or has pleaded guilty to any Class I misdemeanor pursuant to Chapter 28, article 3, 4, 7, 8, 10, 11, or 12, or any similar offense under a prior criminal statute or in another state, except that any additional requirements imposed by this subdivision on May 18, 1983, shall not prevent any person holding a license on such date from retaining or renewing such license if the conviction or plea occurred prior to May 18, 1983, (6) a person whose license issued under the Nebraska Liquor Control Act has been revoked for cause, (7) a person who at the time of application for renewal of any license issued under the act would not be eligible for such license upon initial application, (8) a ~~partnership~~ partnership, unless one of the ~~partners~~ partners is a resident of the county in which the premises covered by the license are located and unless all the members of such

~~eo~~partnership ~~partnership~~ are otherwise qualified to obtain a license, (9) a limited liability company, unless one of the members is a resident of the county in which the premises covered by the license are located and unless all the members of such company are otherwise qualified to obtain a license. (10) a corporation, if any officer, manager, or director of the corporation or any stockholder owning in the aggregate more than twenty-five percent of the stock of such corporation would be ineligible to receive a license under this section for any reason other than the reasons stated in subdivisions (1) and (3) of this section, except that this subdivision shall not apply to railroad licenses, ~~(10)~~ (11) a person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee, ~~(11)~~ (12) a person who does not own the premises for which a license is sought or does not have a lease on such premises for the full period for which the license is to be issued, ~~(12)~~ (13) except as provided in this subdivision, an applicant whose spouse is ineligible under this section to receive and hold a liquor license. Such applicant shall become eligible for a liquor license only if the commission finds from the evidence that the public interest will not be infringed upon if such license is granted. It shall be prima facie evidence that when a spouse is ineligible to receive a liquor license the applicant is also ineligible to receive a liquor license. Such prima facie evidence shall be overcome if it is shown to the satisfaction of the commission (a) that the licensed business will be the sole property of the applicant and (b) that such licensed premises will be properly operated, ~~(13)~~ (14) a person seeking a license for premises which do not meet standards for fire safety as established by the State Fire Marshal, ~~(14)~~ (15) a law enforcement officer, except that this subdivision shall not prohibit a law enforcement officer from holding membership in any nonprofit organization holding a liquor license or from participating in any manner in the management or administration of a nonprofit organization, or ~~(15)~~ (16) a person less than twenty-one years of age.

When a trustee is the licensee, the beneficiary or beneficiaries of the trust shall comply with the requirements of this section, but nothing in this section shall prohibit any such beneficiary from being a minor or a person who is mentally incompetent.

Sec. 320. That section 53-149, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

53-149. A license shall be purely a personal privilege, good for not to exceed one year after issuance unless sooner revoked as ~~in this act~~ provided in the Nebraska Liquor Control Act, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, except that (1) executors or administrators of the estate of any deceased licensee, when such estate consists in part of alcoholic liquor, or a partnership or limited liability company upon the death of one or more of the partners or members, may

continue the business of the sale or manufacture under order of the appropriate court; and may exercise the privileges of the deceased; or deceased partner or member after the death of such decedent; until the expiration of such license, but if such license would have expired within two months following the death of the licensee, the license may be renewed by the administrators or executors with the approval of the appropriate court for a period not to exceed one additional year; or (2) when a license is issued to a husband and wife, as colicensees with rights of survivorship, upon the death of one spouse the survivor may exercise all rights and privileges under such license in his or her own name. The trustee of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale or manufacture under order of the appropriate court; and may exercise the privileges of the insolvent or bankrupt licensee until the expiration of such license.

Sec. 321. That section 53-168, Revised Statutes Supplement, 1992, be amended to read as follows:

53-168. (1) It shall be unlawful for any person having a retail license to sell beer to accept credit for the purchase of beer from any manufacturer or wholesaler of beer and for any person having a retail license to sell alcoholic liquor or any officer, associate, member, representative, or agent of such licensee to accept, receive, or borrow money or anything else of value or to accept or to receive credit, other than merchandising credit in the ordinary course of business for a period not to exceed thirty days, directly or indirectly, from (a) any person, partnership, limited liability company, or corporation engaged in manufacturing or wholesaling such liquor, (b) any person connected with or in any way representing such manufacturer or wholesaler, (c) any member of the family of such manufacturer or wholesaler, (d) any stockholders in any corporation engaged in manufacturing or wholesaling such liquor, or (e) any officer, manager, agent, member, or representative of such manufacturer or wholesaler.

(2) It shall be unlawful for any manufacturer or wholesaler to give or lend money or otherwise loan or extend credit, except the merchandising credit referred to in subsection (1) of this section, directly or indirectly, to any such licensee or to the manager, representative, agent, member, officer, or director of such licensee. It shall be unlawful for any wholesaler to participate in any manner in a merchandising and coupon plan of any manufacturer involving alcoholic liquor and the redemption in cash. The redemption of any merchandising and coupon plan involving cash shall be made by the manufacturer to the consumer.

(3) If any holder of a license to sell alcoholic liquor at retail or wholesale violates subsection (1) or (2) of this section, such license shall be suspended or revoked by the commission in the manner provided by the Nebraska Liquor Control Act.

(4) It shall not be a violation of subsection (1) or (2) of this section for a manufacturer or wholesaler to sell or provide alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or to sell or provide alcoholic liquor in containers bearing a generic label

to a wholesaler, retailer, or bottle club licensee.

(5) It shall not be a violation of subsection (1) or (2) of this section for a wholesaler, retailer, or bottle club licensee to accept or purchase from a manufacturer or wholesaler alcoholic liquor exclusively or in minimum quantities in containers bearing a private label or for a wholesaler, retailer, or bottle club licensee to accept or purchase from a manufacturer or wholesaler alcoholic liquor in containers bearing a generic label.

Sec. 322. That section 53-205, Revised Statutes Supplement, 1992, be amended to read as follows:

53-205. Ancillary business shall mean a business owned by a wholesaler, by a substantial stockholder of a wholesaler, ~~or~~ by a substantial partner of a wholesaler, or by a substantial member of a limited liability company, the primary business of which is directly related to the transporting, storing, or marketing of the brand or brands of beer of a supplier with whom the wholesaler has an agreement, or a business owned by a wholesaler, by a substantial stockholder of a wholesaler, ~~or~~ by a substantial partner of a wholesaler, or by a substantial member of a limited liability company which recycles empty beverage containers.

Sec. 323. That section 53-212, Revised Statutes Supplement, 1992, be amended to read as follows:

53-212. Substantial stockholder, ~~or~~ substantial partner, or substantial member shall mean a stockholder of, ~~or~~ partner in, or member of the wholesaler who owns fifty percent or more of the capital stock of a corporate wholesaler or of the partnership or the limited liability company.

Sec. 324. That section 53-218, Revised Statutes Supplement, 1992, be amended to read as follows:

53-218. (1) Notwithstanding any agreement and except as otherwise provided for in sections 53-201 to 53-223, a supplier shall not amend or modify an agreement, cause a wholesaler to resign from an agreement, or cancel, terminate, fail to renew, or refuse to continue under an agreement unless the supplier has:

(a) Satisfied the applicable notice requirements of subsection (3) of this section;

(b) Acted in good faith; and

(c) Good cause for the amendment, modification, forced resignation, cancellation, termination, nonrenewal, or discontinuance.

(2) For each amendment, modification, cancellation, termination, nonrenewal, or discontinuance, the supplier shall have the burden of proving that it has acted in good faith, that the notice requirements under this section have been complied with, and that there was good cause for the amendment, modification, cancellation, termination, nonrenewal, or discontinuance.

(3) Notwithstanding any agreement and except as to new products and as otherwise provided in this section and in addition to the time limits set forth in subdivision (4)(e) of this section, the supplier shall furnish written notice of the amendment, modification, cancellation,

termination, nonrenewal, or discontinuance of an agreement to the wholesaler not less than thirty days before the effective date of the amendment, modification, cancellation, termination, nonrenewal, or discontinuance. The notice shall be sent by certified mail and shall contain:

(a) A statement of intention to amend, modify, cancel, terminate, not renew, or discontinue the agreement;

(b) A statement of the reason for the amendment, modification, cancellation, termination, nonrenewal, or discontinuance; and

(c) The date on which the amendment, modification, cancellation, termination, nonrenewal, or discontinuance shall take effect.

(4) Notwithstanding any agreement, good cause shall exist for the purposes of a cancellation, termination, nonrenewal, or discontinuance under subdivision (1)(c) of this section when:

(a) There is a failure by the wholesaler to comply with a provision of the agreement which is both reasonable and of material significance to the business relationship between the wholesaler and the supplier;

(b) The supplier first acquired knowledge of the failure described in subdivision (a) of this subsection not more than twenty-four months before the date notification was given pursuant to subsection (3) of this section;

(c) The wholesaler was given notice by the supplier of failure to comply with the agreement within twenty-four months of such failure;

(d) The wholesaler was afforded a reasonable opportunity to assert good faith efforts to comply with the agreement within the time limits provided for in subdivision (e) of this subsection; and

(e) The wholesaler has been afforded thirty days in which to submit a plan of corrective action to comply with the agreement and an additional ninety days to cure such noncompliance in accordance with the plan.

(5) Notwithstanding subsections (1) and (3) of this section, a supplier may cancel, terminate, fail to renew, or discontinue an agreement immediately upon written notice given in the manner and containing the information required by subsection (3) of this section if:

(a) The wholesaler becomes insolvent, files or has filed against it a petition under any bankruptcy or receivership law, makes an assignment for the benefit of creditors, or is dissolved or liquidated and such action materially affects the wholesaler's ability to remain in business;

(b) The wholesaler's state or federal license is revoked or suspended by the appropriate regulatory agency and the wholesaler cannot service the wholesaler's sales territory for more than sixty-one days;

(c) The wholesaler or a partner, a member, or an individual who owns ten percent or more of the partnership, the limited liability company, or the ~~or~~ stock of a corporate wholesaler has been convicted of a felony under the United States Code or the laws of any

state which reasonably may adversely affect the goodwill or interest of the wholesaler or supplier. An existing stockholder, ~~or~~ partner, or member or a designated member shall have, subject to the provisions of sections 53-201 to 53-223, the right to purchase the partnership interest, the limited liability company member interest, or the stock of the offending partner or stockholder, and if the sale is completed prior to conviction, the provisions of this subdivision shall not apply; or

(d) The supplier and wholesaler agree to a termination.

(6) Notwithstanding subsections (1), (3), and (4) of this section, upon not less than fifteen days' written notice given in the manner and containing the information required by subsection (3) of this section, a supplier may cancel, terminate, fail to renew, or discontinue an agreement if:

(a) There was intentional fraudulent conduct relating to a material matter on the part of the wholesaler in dealings with the supplier or its producers. The supplier shall have the burden of proving intentional fraudulent conduct relating to a material matter on the part of the wholesaler;

(b) The wholesaler failed to confine its sales of a brand or brands to retailers in its designated sales territory. This subdivision shall not apply if there is a dispute between two or more wholesalers as to the boundaries of the assigned territory and the boundaries cannot be determined by a reading of the description contained in the agreements between the supplier and the wholesalers;

(c) A wholesaler who has failed to pay for beer ordered and delivered in accordance with established terms with the supplier fails to make full payment within two business days after receipt of written notice of the delinquency and demand for immediate payment from the supplier;

(d) A wholesaler intentionally has made a transfer of the wholesaler's business, other than a transfer to a designated member or pursuant to a loan agreement or debt instrument, without prior written notice to the supplier and has failed, within thirty days from the receipt of written notice from the supplier of its intent to terminate on the ground of such transfer, to reverse the transfer of the wholesaler's business;

(e) A wholesaler intentionally has made a transfer of his or her business, other than a transfer to a designated member, although the wholesaler has prior to the transfer received from the supplier a timely notice of disapproval of the transfer in accordance with sections 53-201 to 53-223; or

(f) The wholesaler intentionally ceases or ceases for a period of more than thirty-one days to carry on business with respect to any of the supplier's brand or brands previously serviced by a wholesaler in its sales territory designated by the supplier unless such cessation is due to a force beyond the control of the wholesaler or to a labor dispute and the wholesaler has made good faith efforts to overcome such events. This subdivision shall affect only that brand or brands with respect to which the wholesaler ceased to carry on business.

(7) Notwithstanding subsections (1), (3), (5), and (6) of this section, a supplier may cancel, terminate, not renew, or discontinue an agreement upon not less than thirty days' written notice if the supplier discontinues production or discontinues distribution in this state of all the brands sold by the supplier to the wholesaler. Nothing in this section shall prohibit a supplier from (a) upon not less than thirty days' written notice, discontinuing the distribution of any particular brand or package of beer or (b) conducting test marketing of a new brand of beer or of a brand of beer which is not currently being sold in this state if the supplier has notified the Nebraska Liquor Control Commission in writing of its plans to test market. The notice to the commission shall describe the market area in which the test will be conducted, the name or names of the wholesaler or wholesalers who will be selling the beer, the name or names of the brand of beer being tested, and the period of time, not to exceed eighteen months, during which the testing will take place.

(8) Each wholesaler who sells beer to a retailer in this state shall service for the purpose of quality control all the beer it sells to that retailer. Each wholesaler shall, to the extent permitted by the Nebraska Liquor Control Act and the rules and regulations adopted and promulgated pursuant to such act:

(a) Rotate the beer it sold to a retailer no less frequently than may be specified from time to time by the brand owner so that beer produced first will be sold first;

(b) Clean and maintain tap equipment and provide related services as may be specified from time to time by the brand owner;

(c) Remove and replace with the same kind of beer any beer it sold to a retailer which has not been resold to a consumer within the time limits specified by the brand owner; and

(d) Provide whatever additional quality control services and comply with whatever additional quality control requirements are specified in writing from time to time by the brand owner, subject to the conditions that those services and requirements are reasonable and are reasonably related to promotion of quality control and that the wholesaler has received written notice of the services to be provided and the requirements to be satisfied and has been granted a reasonable time within which to comply.

(9) Except in the event of a temporary service interruption, a wholesaler shall not sell beer (a) to a retailer who does not have a location within the wholesaler's sales territory at which the retailer is entitled to resell beer to consumers or who the wholesaler knows or reasonably should know does not have a location within the wholesaler's sales territory at which the retailer is entitled to resell beer or (b) to any person who the wholesaler has reason to believe will sell or supply all or part of such beer to any retailer who does not have a location within the wholesaler's sales territory at which the retailer is entitled to resell beer. During a period of temporary service interruption impacting a particular wholesaler's sales territory, the wholesaler who normally services the sales territory shall file with the Nebraska Liquor Control Commission and

serve on his or her suppliers a written notice stating that a temporary service interruption has occurred and indicating the anticipated duration of the temporary service interruption. After receiving such notice the supplier may designate another wholesaler or wholesalers to service the sales territory during the period of temporary service interruption. After the temporary service interruption, the wholesaler who normally services the sales territory shall file with the commission and serve on each wholesaler providing temporary service and each supplier a written notice stating that the temporary service interruption has ended. Each wholesaler providing temporary service shall cease servicing the sales territory after receiving such notice.

Sec. 325. That section 54-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-102. Any person or persons, partnership, limited liability company, association, firm, or corporation having cattle, sheep, horses, mules, or asses; shall have the right to adopt a brand, for the use of which he or she shall have the exclusive right in this state, after recording such brand as provided in section 54-104.

Sec. 326. That section 54-104, Revised Statutes Supplement, 1992, be amended to read as follows:

54-104. (1) Any person, partnership, limited liability company, association, firm, or corporation desiring to adopt any brand shall forward to the brand committee a facsimile of such desired brand, together with a written application and a recording fee of twenty-five dollars for the first location on a side and fifteen dollars for each additional location requested on that side in the same ownership. Upon receipt of such facsimile, application, and fee, the brand committee shall then make examination thereof to determine compliance with the following requirements:

(a) No brand shall be recorded which is found to be of record as that of some other person, partnership, limited liability company, association, firm, or corporation;

(b) No brand shall be recorded which is found to conflict with or closely resemble that of any person, partnership, limited liability company, association, firm, or corporation;

(c) No brand shall be recorded for which the application does not specify the side of the animal and the location on the side of the animal where the brand is to be placed, and no brand described as being placed on either side of the animal shall be recorded;

(d) No brand shall be recorded in any trade name nor in the name of any profit or nonprofit corporation, unless such trade name or corporation is of record, in current good standing, with the Secretary of State;

(e) No brand shall be recorded whenever in the judgment of the brand committee such brand is illegible, inadequate, or of such a nature that the brand when applied cannot be properly read or identified by employees of the brand committee; and

(f) No new brand shall be recorded for the ribs on either

side after September 6, 1991. All brands recorded for the ribs on such date shall remain valid and renewable and shall be transferable as provided in section 54-108 until such brand expires as provided in section 54-104.01.

If the facsimile or the application is found not to comply with any of such requirements, the brand committee shall not record such brand as requested but shall return the recording fee to the forwarding person. The power of examination and rejection shall be vested in the brand committee, and if the brand committee determines that the application for brand falls within the category set out in subdivision (1)(e) of this section, it shall decide whether or not the brand shall be issued. The brand committee shall make such examination as promptly as possible. If the brand is accepted, the ownership thereof shall vest from the date of filing.

(2) Whenever the holders of brands which conflict with or closely resemble each other maintain their herds in close proximity to each other, the brand committee shall have authority to decide, after hearing as to which at least ten days' written notice has been given, any dispute arising therefrom and to direct such change or changes in the position or positions where such brand or brands are to be placed as will remove any confusion that might result from such conflict or close resemblance.

(3) The recording provided for in subsection (1) of this section shall secure to the person so applying the brand until its expiration date. Until January 1, 1994, the expiration date of a brand recording shall be December 31 of the renewal year as designated by the brand index kept by the brand committee. On and after January 1, 1994, the expiration date of a brand recording shall be the last day of the calendar quarter designated by the brand committee of the renewal year as designated by the brand index.

(4) The brand committee shall notify every owner of a brand of record of the expiration of the recording at least sixty days prior to the expiration date of the recording, and the owner shall pay to the brand committee a renewal fee of twenty-five dollars and furnish such other information as may be required by the brand committee. The renewal fee shall be due and payable on or before the expiration date and shall renew a brand for a period of four years regardless of the number of locations on one side of an animal on which the brand is recorded. If any owner fails, refuses, or neglects to pay the renewal fee by the expiration date, the brand shall be forfeited.

Sec. 327. That section 54-106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-106. It shall be unlawful to use any brand for branding any horses, cattle, mules, or asses; unless the person, persons, partnership, limited liability company, association, or corporation using such brand has recorded that brand with the Nebraska Brand Committee.

Sec. 328. That section 54-108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-108. Any brand recorded; as provided in section

54-104; shall be the property of the person, persons, partnership, limited liability company, association, or corporation causing such record to be made; and shall be subject to sale, assignment, transfer, devise, and descent; as personal property. Instruments of writing evidencing the sale, assignment, or transfer of such brand; shall be recorded by the Nebraska Brand Committee; and the fee for recording such sale, assignment, or transfer shall be twenty-five dollars. The recording of such instruments shall give notice to all third persons of the matter therein recorded, certified copies of which shall be admissible in evidence without further foundation. Such instruments shall be duly acknowledged by a notary public or any other officer qualified under law to administer oaths.

Sec. 329. That section 54-115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-115. It shall be the duty of any person or persons, partnership, limited liability company, organization, or corporation; who brings into any county of this state for grazing purposes; any animals mentioned in section 54-102; already branded; to lay before the Nebraska Brand Committee a statement of the brands of such animals. A failure to comply with the provisions of this section shall render the party so violating liable for all damages resulting from such failure.

Sec. 330. That section 54-126, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-126. It shall be unlawful for any person, partnership, limited liability company, corporation, or company to kill; for his, her, or its own use and consumption; any beef or veal without preserving the hide of such animal intact; with a complete unskinned tail attached thereto; for a period of not less than fifteen days; unless a certificate of satisfactory inspection is secured from an authorized brand inspector, and such hide shall be presented for inspection upon demand of any person.

Sec. 331. That section 54-133.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-133.01. The numerals 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9 in singular or triangular position are hereby reserved for in-herd identification on both the right and left shoulder of all livestock. In addition, for the purposes of in-herd identification, an alphabetical letter may be substituted for one of the numerals used in a triangular configuration. It shall be unlawful for any person, partnership, limited liability company, firm, or corporation to use such shoulder location for single-number branding except for year branding. The in-herd identification brand shall be used in conjunction with the regular registered brand on the same side of the animal as the registered brand.

Sec. 332. That section 54-155, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-155. Except as provided in this section, it shall be unlawful for any butcher, packer, or vendor engaged in the slaughter of cattle within the brand area to kill or otherwise dispose of any cattle; until a brand inspection is performed by the Nebraska Brand Committee on the premises where such slaughter is to take place; and until a

certificate of brand inspection from the Nebraska Brand Committee is filed and is made a part of his or her permanent records. All such certificates of brand inspection shall, upon demand, be displayed to any law enforcement officer or to the Nebraska Brand Committee at any time. If the cattle to be slaughtered are purchased by such butcher, packer, or vendor at a regularly brand-inspected sales barn; and are destined for direct slaughter upon reaching destination, the brand inspector at such sales barn shall be advised that such cattle are destined for direct slaughter. The brand inspector shall then issue a brand inspection certificate for the cattle, such certificate to indicate that the cattle are to go to direct slaughter and that the cattle are not to be retained by such butcher, packer, or vendor for longer than ninety-six hours prior to slaughter. Cattle inspected at the point of origin by a duly authorized brand inspector shall not require an additional brand inspection upon reaching a destination within the boundaries of the State of Nebraska; if the certificate of brand inspection designates that the cattle are to go directly for slaughter; and not to be retained by such butcher, packer, or vendor longer than ninety-six hours prior to slaughter. When any animal inspected under the provisions of this section has been offered for slaughter and satisfactory evidence of ownership has not been provided, the butcher, packer, or vendor may, with the approval of the brand inspector, slaughter the animal and hold the meat of the animal until such time as satisfactory evidence of ownership has been provided to the brand committee. It shall be the duty of the brand inspector to provide the butcher, packer, or vendor with an official notice advising the operator not to release the meat until authorized by the brand committee. The brand committee may provide for a cash bond to be posted with the director of the brand committee so that the meat may be released prior to the establishment of satisfactory evidence of ownership. The amount of the bond shall be set at the approximate value of the animal. When satisfactory evidence of ownership has been provided by the person, partnership, limited liability company, firm, association, or corporation offering the cattle for slaughter, the director shall authorize the release of the meat or the return of the bond.

Sec. 333. That section 54-156, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-156. Any person, persons, partnership, limited liability company, firm, association, or corporation, including any railroad company or other carrier, who ~~shall violate~~ violates any provision of sections 54-101 to 54-155, 54-159 to 54-169, ~~and~~ or section 54-415; shall be deemed guilty of a Class II misdemeanor; except if a penalty is elsewhere provided for such sections.

Sec. 334. That section 54-169, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-169. No person, firm, association, partnership, limited liability company, or corporation shall sell or trade any cattle located within the brand area of Nebraska, nor shall any person, firm, association, partnership, limited liability company, or corporation buy or purchase any

such cattle; unless each such animal has been inspected for brands and ownership and a brand inspection certificate or clearance issued by the Nebraska Brand Committee. Any person, firm, association, partnership, limited liability company, corporation, or authorized agent selling such cattle shall present to the brand inspector a properly executed bill of sale, brand clearance, or other satisfactory evidence of ownership; which shall be filed with the original inspection certificate in the records of the Nebraska Brand Committee. At any time a brand inspection is required by law, any duly authorized Nebraska brand inspector or brand investigator shall have the authority to transfer evidence of ownership of such cattle from a seller to a buyer. The only exceptions to the provisions of this section shall be:

(1) Cattle that fall under the provisions of the registered feedlot laws, rules, and regulations;

(2) No brand inspection shall be required when cattle or other livestock are transferred to a family corporation when all the shares of capital stock of the corporation are owned by the husband, wife, children, or grandchildren of the transferor and there is no consideration for the transfer other than the issuance of stock of the corporation to such family members;

(3) No brand inspection shall be required when the change of ownership of cattle is a change in form only and the surviving interests are in the exact proportion as the original interests of ownership. When there is a change of ownership described in subdivision (2) or (3) of this section, an affidavit, on a form prescribed by the Nebraska Brand Committee, signed by the transferor and stating the nature of the transfer and the number of cattle involved and the brands presently on the cattle, shall be filed with the Nebraska Brand Committee;

(4) No brand inspection shall be initially required on cattle sold or purchased for educational or exhibition purposes or other recognized youth activities if a legal bill of sale is exchanged and presented upon demand as required by sections 54-116 and 54-117;

(5) No brand inspection shall be required for the sale or purchase at private treaty of baby calves under the age of thirty days if a legal bill of sale is exchanged and presented upon demand as required by sections 54-116 and 54-117; and

(6) Purebred cattle raised by the seller and individually registered with an organized breed association if a legal bill of sale is exchanged and presented upon demand as required by sections 54-116 and 54-117.

The exceptions provided in subdivisions (1) ~~to~~ through (6) of this section are for the purposes of this section only and shall not exempt these classes of cattle from the provisions of any other applicable statute.

Sec. 335. That section 54-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-201. (1) When any person, firm, corporation, ~~or~~ partnership, or limited liability company not provided for in subsection (2)

of this section shall procure, contract with, or hire any other person to feed and take care of any kind of livestock, the person so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such livestock for the feed and care bestowed by him or her upon the same for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of such feed and care, as long as the holders of any prior liens shall have agreed in writing to the contract for the feed and care of the livestock involved. The person, firm, corporation, ~~or~~ partnership, or limited liability company entitled to a lien under this section may foreclose the same in the manner provided by law for foreclosure of secured transactions as provided in article 9, Uniform Commercial Code. Prior to removal of such livestock from his or her premises, the person, firm, corporation, ~~or~~ partnership, or limited liability company entitled to a lien shall file in the office of the county clerk, in the county in which such livestock may be fed and kept, an affidavit containing the name and address and the social security number or federal tax identification number of such person, firm, corporation, ~~or~~ partnership, or limited liability company and the name and address and the social security number or federal tax identification number, if known, of the person for whom the feeding and keeping were furnished and describing the livestock and setting forth the amount justly due for the feeding and keeping of the same. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feeding and keeping were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

(2) When any person, firm, corporation, ~~or~~ partnership, or limited liability company whose residence or principal place of business is located outside the State of Nebraska shall procure, contract with, or hire any other person, firm, corporation, ~~or~~ partnership, or limited liability company within the State of Nebraska to feed and take care of any kind of livestock, the person so procured, contracted with, or hired shall have a first, paramount, and prior lien upon such livestock for the feed and care bestowed by him or her upon the same for the contract price agreed upon or, in case no price has been agreed upon, for the reasonable value of such feed and care. The person, firm, corporation, ~~or~~ partnership, or limited liability company entitled to a lien under this subsection may foreclose the same in the manner provided by law for the foreclosure of secured transactions as provided in article 9, Uniform Commercial Code. Prior to removal of such livestock from his or her premises, the person, firm, corporation, ~~or~~ partnership, or limited liability company entitled to a lien shall file in the office of the county clerk, in the county in which such livestock may be fed and kept, an affidavit containing the name and address and the social security number or federal tax identification number of such person, firm, corporation, ~~or~~ partnership, or limited liability company and the name and address and the social security number or federal tax identification number, if

known, of the person for whom the feeding and keeping were furnished and describing the livestock and setting forth the amount justly due for the feeding and keeping of the same. The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feeding and keeping were furnished. The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Sec. 336. That section 54-208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-208. When any person, firm, partnership, limited liability company, or corporation contracts or agrees with another to deliver any feed or feed ingredients for any kind of livestock, the person, firm, partnership, limited liability company, or corporation so procured, contracted with, agreed with, or hired shall have a lien upon such livestock for the feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients for the agreed-upon contract price or, in case no price has been agreed upon, for the reasonable value of such feed or feed ingredients and related delivery costs, which shall be a first, paramount, and prior lien if the holders of any prior liens have agreed in writing to the contract for the feed or feed ingredients and related delivery costs. The lien may only be foreclosed against the person who has contracted or agreed for such feed or feed ingredients and related costs incurred in the delivery of such feed or feed ingredients.

Such person, firm, partnership, limited liability company, or corporation delivering feed or feed ingredients or incurring delivery costs shall file a notice in the office of the county clerk of the county in which such livestock are located. Such notice of lien shall designate:

- (1) The name and address and the social security number or federal tax identification number of such person, firm, partnership, limited liability company, or corporation;
- (2) The name and address and the social security number or federal tax identification number, if known, of the person for whom such feed or feed ingredients were delivered;
- (3) The amount due for such feed or feed ingredients covered by the lien;
- (4) The place where such livestock are located;
- (5) A reasonable description of such livestock including the number and type of such livestock; and
- (6) The last date on which such feed or feed ingredients were delivered.

The failure to include the social security number or federal tax identification number shall not render any filing unperfected. At the time the lien is filed, the lienholder shall send a copy to the person for whom the feed or feed ingredients were delivered.

Such lien shall attach and have priority as of the date of the filing if filed in the manner provided in this section and may be foreclosed in the manner and form provided for the foreclosure of secured

transactions in article 9, Uniform Commercial Code.

The fee for filing, amending, or releasing such lien shall be the same as set forth in section 9-403, Uniform Commercial Code.

Nothing in this section shall be construed to amend or repeal section 54-201 relating to agisters' liens.

Sec. 337. That section 54-609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-609. In counties having a population of eighty thousand or more inhabitants and cities of the first class contained in such counties, it shall be unlawful for any person, firm, partnership, limited liability company, or corporation owning, keeping, or harboring any dog to permit such dog to run at large when such dog does damage to public or private property.

Sec. 338. That section 54-610, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-610. In counties having a population of eighty thousand or more inhabitants and cities of the first class contained in such counties, whenever complaints are made to the poundmaster or the person or corporation performing the duties of poundmaster that a dog is at large or doing damage to public or private property, it shall be the duty of such poundmaster, person, or corporation to investigate such complaint. If upon such investigation it appears that the complaint is founded upon facts, it shall be the duty of such poundmaster, person, or corporation to take such dog into custody and file or cause to be filed a complaint in the county court against such person, firm, partnership, limited liability company, or corporation owning, keeping, or harboring such dog charging a violation of sections 54-601 and 54-608 to 54-611.

Sec. 339. That section 54-849, Revised Statutes Supplement, 1992, be amended to read as follows:

54-849. For purposes of the Commercial Feed Act, unless the context otherwise requires:

(1) Brand name shall mean any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor or person named on the label and distinguishing it from that of others;

(2) Commercial feed shall mean all materials or combinations of materials which are distributed or intended for distribution for use as feed or for mixing in feed unless such materials are specifically exempted. Unmixed whole seeds and physically altered entire unmixed seeds, when such seeds are not chemically changed or are not adulterated within the meaning of subdivision (1) of section 54-854, are exempt. The director may, by regulation, exempt from this definition or from specific provisions of the Commercial Feed Act commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds, or substances are not intermixed with other materials and are not adulterated within the meaning of subdivision (1) of section 54-854;

(3) Customer-formula feed shall mean commercial feed

which consists of a mixture of commercial feeds or feed ingredients manufactured according to the specific instructions of the final purchaser;

(4) Department shall mean the Department of Agriculture;

(5) Director shall mean the Director of Agriculture or his or her authorized agent;

(6) Distribute shall mean to offer for sale, sell, exchange, barter, or otherwise supply commercial feed;

(7) Distributor shall mean any person who distributes;

(8) Drug shall mean any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans and articles other than feed intended to affect the structure or any function of the animal body;

(9) Feed ingredient shall mean each of the constituent materials making up a commercial feed;

(10) Label shall mean a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed;

(11) Labeling shall mean all labels and other written, printed, or graphic matter (a) upon a commercial feed or any of its containers or wrappers or (b) accompanying such commercial feed;

(12) Manufacture shall mean to grind, mix, blend, or further process a commercial feed for distribution;

(13) Mineral feed shall mean a commercial feed intended to supply primarily mineral elements or inorganic nutrients;

(14) Official sample shall mean a sample of feed taken by the director in accordance with section 54-859;

(15) Percent or percentages shall mean percentages by weight;

(16) Person shall mean any individual, partnership, limited liability company, cooperative, corporation, firm, trustee, or association;

(17) Pet shall mean any domesticated animal normally maintained in or near the household of the owner thereof;

(18) Pet food shall mean any commercial feed prepared and distributed for consumption by pets;

(19) Product name shall mean the name of the commercial feed which identifies it as to kind, class, or specific use;

(20) Specialty pet shall mean any domesticated animal pet normally maintained in a cage or tank including, but not limited to, gerbils, hamsters, canaries, psittacine birds, mynahs, finches, tropical fish, goldfish, snakes, and turtles;

(21) Specialty pet food shall mean any commercial feed prepared and distributed for consumption by specialty pets; and

(22) Ton shall mean a net weight of two thousand pounds avoirdupois.

Sec. 340. That section 54-1158, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1158. As used in sections 54-152 and 54-1157 to

54-1186, unless the context otherwise requires:

(1) Person shall mean any individual, firm, association, partnership, limited liability company, or corporation;

(2) Department shall mean the Department of Agriculture;

(3) Director shall mean the Director of Agriculture;

(4) Board shall mean the Livestock Auction Market Board;

(5) Livestock shall mean cattle, calves, horses, mules, swine, sheep, and goats;

(6) Livestock auction market shall mean any place, establishment, or facility commonly known as a livestock auction market, sales ring, or the like, conducted or operated for compensation as an auction market for livestock, consisting of pens; or other enclosures, and their appurtenances, in which livestock are received, held, sold, or kept for sale or shipment;

(7) Market license shall mean the license for livestock auction market operation authorized to be issued under ~~the provisions of such sections; and 54-152 and 54-1157 to 54-1186; and~~

(8) Livestock auction market operator shall mean any person engaged in the business of conducting or operating a livestock auction market, whether personally or through agents or employees.

Sec. 341. That section 54-1509, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1509. Any person, partnership, limited liability company, association, or corporation, or officer or member thereof, who ~~shall~~ (1) interfere ~~interferes~~ with the destruction of swine mandated under sections 54-1501 to 54-1512, (2) violate ~~violates~~ a quarantine or disinfection order issued under ~~sections 54-1501 to 54-1512 such sections~~, (3) import ~~imports~~ swine into this state without first obtaining a health certificate from a licensed and accredited veterinarian and the required shipping permit from the Bureau of Animal Industry, or (4) after obtaining a health certificate and shipping permit, divert ~~diverts~~ a shipment from the point of destination stated upon the health certificate and shipping permit without written permission from the Bureau of Animal Industry shall be guilty of a Class IV felony.

Sec. 342. That section 54-1514, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1514. ~~As used in sections 54-1513 to 54-1521~~ For purposes of the Hog Cholera Control and Eradication Act, unless the context otherwise requires:

(1) Hog cholera serum shall mean a serum which when injected into a susceptible hog; will protect the animal for a variable time against hog cholera either from exposure to infected swine or from an injection of a minimum of two cubic centimeters of known virulent hog cholera virus;

(2) Virulent hog cholera virus shall mean a virus which when inoculated into a susceptible swine, in a minimum dose of two cubic centimeters, will cause hog cholera;

(3) Modified live hog cholera vaccine shall mean any

vaccine prepared from a modified live hog cholera virus which will establish an immunity or resistance against hog cholera when the animal is exposed to infected swine or by injection of a minimum dose of two cubic centimeters of known virulent hog cholera virus;

(4) Killed or inactivated hog cholera virus shall mean any killed suspension of hog cholera virus which when inoculated into susceptible swine will not produce hog cholera;

(5) A virulent virus shall mean hog cholera virus which fails to cause hog cholera in swine, susceptible to such disease, when injected in doses of not more than two cubic centimeters;

(6) Impotent serum shall mean hog cholera serum which fails to protect swine against hog cholera when injected in doses as recommended on the label of the container, for the weight of swine indicated thereon, against a dose of virulent hog cholera virus of not less than two cubic centimeters;

(7) Person shall include individual, partnership, limited liability company, corporation, and association or any officer, partner, or member of same; and

(8) Director shall mean the Director of Agriculture.

Sec. 343. That section 54-1602, Revised Statutes Supplement, 1992, be amended to read as follows:

54-1602. Every person, partnership, limited liability company, firm, association, or corporation which issues, uses, or circulates any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, or written or printed representation or description of or pertaining to SPF swine intended for propagation or sale or sold or offered for sale in which the words SPF Accredited, Nebraska SPF Accredited, or similar words or phrases are used or employed or in which are used or employed signs, symbols, maps, diagrams, pictures, words, or phrases expressly or impliedly stating or representing that such SPF swine comply with or conform to the standards or requirements recommended or approved by the University of Nebraska Institute of Agriculture and Natural Resources or by any legal entity or organization designated by such institute shall be subject to the provisions of sections 54-1601 to 54-1605.

Sec. 344. That section 54-1605, Revised Statutes Supplement, 1992, be amended to read as follows:

54-1605. It shall be unlawful for any person, partnership, limited liability company, firm, association, or corporation to issue, make, use, or circulate any accreditation without the authority and approval of the University of Nebraska Institute of Agriculture and Natural Resources or its duly authorized agency. Every person, partnership, limited liability company, firm, association, or corporation who violates any of the provisions of sections 54-1601 to 54-1605 pertaining to accreditation shall be guilty of a Class IV misdemeanor.

Sec. 345. That section 54-1703, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-1703. As used in sections 54-1701 to 54-1711, unless

the context otherwise requires:

- (1) Department shall mean the Department of Agriculture;
- (2) Director shall mean the Director of Agriculture;
- (3) State Veterinarian shall mean the person officially appointed to this position by the director;
- (4) Livestock shall mean cattle, sheep, and swine;
- (5) Livestock dealer shall mean any person, partnership, limited liability company, association, or corporation who is engaged in the business of buying or selling livestock for the purpose of resale within this state either for his or her own account or as the employee or agent of the seller or purchaser, except an agent or employee who buys and sells exclusively for the account of a licensed dealer. Livestock dealer shall also include those who buy or sell from a concentration point. Livestock dealer shall not include a person or persons engaged in a farm or ranch operation who purchases livestock for utilization of same as an integral part of the livestock and livestock product production of his or her farm or ranch operation; or purebred sales held by the breed registry associations; or the purchase or sale of livestock primarily used for research, experimentation, exhibition, or entertainment purposes, including sales by the Future Farmers of America or 4-H groups; and
- (6) Concentration point shall mean any place of business where livestock is assembled for resale.

Sec. 346. That section 54-1902, Revised Statutes Supplement, 1992, be amended to read as follows:

54-1902. For purposes of the Nebraska Meat and Poultry Inspection Law, unless the context otherwise requires:

- (1) Director shall mean the Director of Agriculture;
- (2) Department shall mean the Department of Agriculture;
- (3) Person shall include individuals, partnerships, limited liability companies, corporations, and associations and any officer, agent, or employee thereof;
- (4) Intrastate commerce shall mean commerce within this state;
- (5) Livestock shall mean any cattle, sheep, swine, goats, horses, mules, other equines, and other mammalian species as the director may determine, either living or dead;
- (6) Livestock product shall mean any carcass, part thereof, meat, or meat food product of any livestock;
- (7) Meat food product shall mean any product capable of use as human food which is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, or goats, except products which contain meat or other portions of such carcasses only in a relatively small proportion or historically have not been considered by consumers as products of the meat food industry and which are exempt from definition as a meat food product by the director under such conditions as he or she may prescribe to assure that the meat or other portions of such carcass contained in such product are not adulterated and that such products are not represented as meat food products. This

term as applied to food products of equines or other mammalian species as designated by the director shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, and goats;

(8) Poultry shall mean any domesticated bird or other avian species as the director may designate, either living or dead;

(9) Poultry product shall mean any poultry carcass or part thereof or any product which is made wholly or in part from any poultry carcass or part thereof, except products which contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry and which are exempt by the director from definition as a poultry product under such conditions as he or she may prescribe to assure that the poultry ingredients in such products are not adulterated and that such products are not represented as poultry products;

(10) Capable of use as human food shall apply to any wholesome livestock or poultry carcass or part or product of any such carcass, unless it is denatured or otherwise identified as required by regulations prescribed by the director to preclude its use as human food or it is naturally inedible by humans;

(11) Prepared shall mean slaughtered, canned, salted, stuffed, rendered, boned, cut up, frozen, or otherwise manufactured or processed in any manner;

(12) Adulterated shall apply to any livestock product or poultry product under one or more of the following circumstances:

(a) If it fails to conform to the requirements established by the Nebraska Pure Food Act and the codes adopted by reference in sections 81-2,257 to 81-2,261;

(b) If it has been subjected to radiation, unless the use of the radiation was in conformity with a regulation or exemption in effect pursuant to section 409 of the Federal Food, Drug and Cosmetic Act approved June 25, 1938, (52 Stat. 1040) and acts amendatory thereof or supplementary thereto; or

(c) If it is margarine containing animal fat and any of the raw material used therein consists in whole or in part of any filthy, putrid, or decomposed substance;

(13) Misbranded shall apply to any livestock product or poultry product under one or more of the following circumstances:

(a) If it fails to conform to the requirements established by the Nebraska Pure Food Act; or

(b) If it fails to bear directly thereon and on its containers, as the director may by regulation prescribe, the official inspection legend and establishment number of the establishment where the product was prepared and, unrestricted by any of the foregoing, such other information as the director may require in such regulations to assure that it will not have false or misleading labeling and that the public will be informed of the manner of handling required to maintain the article in a wholesome condition. Exemptions as to livestock products not in containers may be established by regulations prescribed by the director and exemptions as to

small packages may be established for livestock products or poultry products in the same manner;

(14) Label shall mean a display of written, printed, or graphic matter upon any article or the immediate container, not including package liners, of any article;

(15) Labeling shall mean all labels and other written, printed, or graphic matter (a) upon any article or any of its containers or wrappers or (b) accompanying such article;

(16) Container or package shall mean any box, can, tin, cloth, plastic, or other receptacle, wrapper, or cover;

(17) Shipping container shall mean any container used or intended for use in packaging the product packed in an immediate container;

(18) Immediate container shall mean any consumer package or any other container in which livestock products or poultry products which are not consumer-packaged are packed;

(19) Federal Meat Inspection Act shall mean the act so entitled approved March 4, 1907, (34 Stat. 1260) as amended by the Wholesome Meat Act (81 Stat. 584), Federal Poultry Products Inspection Act shall mean the act so entitled approved August 28, 1957, (71 Stat. 441) as amended by the Wholesome Poultry Products Act (82 Stat. 791), and federal acts shall mean the Federal Meat Inspection Act and the Federal Poultry Products Inspection Act;

(20) Pesticide chemical, food additive, color additive, and raw agricultural commodity shall have the same meanings for purposes of the Nebraska Meat and Poultry Inspection Law as under the Federal Food, Drug and Cosmetic Act approved June 25, 1938, (52 Stat. 1040);

(21) Official mark shall mean the official inspection legend or any other symbol prescribed by regulations of the director to identify the status of any article, livestock, or poultry under the Nebraska Meat and Poultry Inspection Law;

(22) Official inspection legend shall mean any symbol prescribed by regulations of the director showing that an article was inspected and passed in accordance with the Nebraska Meat and Poultry Inspection Law;

(23) Official certificate shall mean any certificate prescribed by regulations of the director for issuance by an inspector or other person performing official functions under the Nebraska Meat and Poultry Inspection Law;

(24) Official device shall mean any device prescribed or authorized by the director for use in applying any official mark;

(25) Establishment shall mean any building or structure in which slaughtering, butchering, meat canning, meat packing, meat manufacturing, poultry canning, poultry packing, poultry manufacturing, pet feed manufacturing, or rendering is carried on, except where such operations are under federal inspection, and the ground upon which such building or structure is erected and so much ground adjacent thereto as is used in carrying on the business of such establishment, including drains,

gutters, and cesspools used in connection with the establishment and any place or vehicle where livestock, poultry, livestock products, poultry products, meat food products, or poultry food products are prepared, manufactured, stored, sold, offered for sale, or exposed for sale;

(26) Rendering shall mean the business of processing livestock or poultry or carcasses or parts thereof not intended or capable for use as human food;

(27) Pet feed manufacturing shall mean the business of processing livestock or poultry or carcasses or parts thereof into small animal feed;

(28) Official establishment shall mean any establishment as determined by the director at which ante mortem and post mortem inspection of livestock or poultry or the inspection of the manufacturing of livestock products or poultry products for human consumption is maintained under the authority of the Nebraska Meat and Poultry Inspection Law;

(29) Inspector shall mean an employee or official or agent of the State of Nebraska authorized by the director, or any employee or official of the federal government or any governmental subdivision of this state authorized by the director, to perform any inspection functions under the Nebraska Meat and Poultry Inspection Law under an agreement between the director and any governmental subdivision or other governmental agency;

(30) License shall mean a license issued under the Nebraska Meat and Poultry Inspection Law by the director;

(31) Licensed establishment shall mean any of the establishments as defined in this section which are licensed under the terms of the Nebraska Meat and Poultry Inspection Law or pursuant to the terms of any other act administered by the director; and

(32) Reinspection shall include inspection of the preparation of livestock products and poultry products, as well as reexamination of articles previously inspected.

Sec. 347. That section 54-2001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

54-2001. ~~As used in sections 54-2001 to 54-2019~~ For purposes of the Nebraska Livestock Auction Market Development Act, unless the context otherwise requires:

(1) Certified veterinarian shall mean an accredited veterinarian employed by or under contract to a livestock market to perform the duties required by ~~sections 54-2001 to 54-2019~~ the act. Certification shall be made by the director in accordance with section 54-2006;

(2) Bureau shall mean the Department of Agriculture, Bureau of Animal Industry;

(3) Department shall mean the Department of Agriculture;

(4) Director shall mean the Director of Agriculture;

(5) License shall mean the authorization for a livestock market issued under the ~~provisions of sections 54-2001 to 54-2019~~ act;

(6) Livestock shall mean cattle, calves, sheep, swine, horses, mules, and goats;

(7) Livestock market shall mean any place, establishment, or facility operated or managed as a market for livestock consisting of pens or other enclosures and their appurtenances where livestock are received, held, sold, or kept for resale or shipment in commerce, but shall not include: (a) Livestock auction markets licensed under the provisions of the Nebraska Livestock Auction Market Development Act; (b) any place or operation where Future Farmers of America, 4-H groups, or private fairs conduct sales of livestock; (c) any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock when such breeders shall assume all responsibility of such sale and the title of livestock sold; or (d) licensed livestock dealers operating pursuant to the Nebraska Livestock Dealer Licensing Act;

(8) Livestock market operator shall mean any person engaged in the business of conducting or operating a livestock market, whether personally or through agents or employees;

(9) Person shall mean any individual, firm, association, partnership, limited liability company, or corporation; and

(10) State Veterinarian shall mean the chief of the Bureau of Animal Industry, Department of Agriculture.

Sec. 348. That section 57-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-301. As used in sections 57-301 to 57-304, unless the context otherwise requires:

(1) The term person includes one or more individuals, partnerships, limited liability companies, associations, corporations, legal representatives, trustees, and receivers in bankruptcy and reorganization of any group whether or not it is incorporated; and :

(2) The term oil field equipment means oil field supplies, oil field machinery, materials, heavy machinery, buildings, tubing, tanks, boilers, engines, casing, wire lines, sucker rods, oil pipelines, gas pipelines, and all other material used in digging, drilling, torpedoing, operating, completing, maintaining, or repairing any such oil or gas wells or oil pipelines or gas pipelines, or in the construction or dismantling of refineries, casing-head gasoline plants, and carbon black plants.

Sec. 349. That section 57-401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-401. Administrators and executors of the estates of deceased persons, trustees of trust estates, conservators of estates of persons unfit by reason of infirmities of age or physical disability, and the guardians of estates of minors and incompetent persons are hereby authorized to enter into contracts with pipeline companies, corporations, individuals, ~~or~~ partnerships, or limited liability companies for the construction, operation, and maintenance of pipelines for the transmission of oil or gas; and to sell and dispose of an easement under the contract for such purposes, upon and across the lands, or any interest therein,

belonging to the estates of deceased persons, beneficiaries of a trust, estates of persons unfit by reason of infirmities of age or physical disability, and estates of minors and incompetents, upon such terms and conditions that the administrators, executors, trustees, conservators, or guardians of such persons may deem reasonable and equitable, and for the best interest of the estates of deceased persons, minors, persons unfit by reason of infirmities of age or physical disability, and incompetents and the beneficiaries of a trust.

Sec. 350. That section 57-601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-601. As used in sections 57-601 to 57-607, unless the context otherwise requires:

(1) Eminent domain statutes shall mean sections 76-701 to 76-724;

(2) Underground reservoir shall mean any subsurface sand, stratum, or formation suitable for the injection and storage of natural gas or liquefied petroleum gas or both therein; or which is capable of being made suitable for the storage of natural gas or liquefied petroleum gas, or both, by the construction of underground caverns by means of mining operations; and the withdrawal of natural gas or liquefied gas therefrom;

(3) Underground storage shall mean the right to inject and store natural gas or liquefied petroleum gas or both within and to withdraw natural gas or liquefied petroleum gas from an underground reservoir;

(4) Natural gas shall mean gas which has been produced from the earth in its original state or such gas after the same has been processed or treated;

(5) Native gas shall mean gas which has not been previously withdrawn from the earth;

(6) Liquefied petroleum gas shall mean hydrocarbons or mixtures thereof which have been extracted from natural gas or crude oil and which consist primarily of propane or butane or mixtures thereof;

(7) Condemner shall mean any person, partnership, limited liability company, corporation, association, or municipal corporation authorized to transport or distribute natural gas as a public utility within this state for ultimate public use or consumption;

(8) Condemnee, property, and county judge shall have the same meaning as in the eminent domain statutes;

(9) Public owner shall mean (a) the state, (b) any agency or political subdivision thereof, (c) any municipal corporation, (d) any quasi-municipal corporation, or (e) any public authority which has an interest in any of the lands in and under which a condemner requires the right to underground storage;

(10) Commercially recoverable native gas shall mean that native gas which would provide revenue in excess of direct operating expenses if produced;

(11) Reasonable notice shall mean notice served in the same manner as is provided in the code of civil procedure for the service

of process in civil actions in the district courts of this state; and

(12) Interested parties shall mean the owners of any oil or gas leasehold, mineral, or royalty interest in the underground stratum or formation sought to be acquired and the owners of the surface rights to the underground stratum or formation.

Sec. 351. That section 57-701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-701. As used in Chapter 57, article 7, unless the context otherwise requires:

(1) Base production level shall mean a property's production for the preceding twelve months divided by the number of producing well production days. Enhanced recovery injection wells may be counted as producing wells to determine the base production level for a property;

(2) Oil shall mean any petroleum product or other oil taken from the earth;

(3) Severed shall mean the taking from the land by any means whatsoever of the natural resources enumerated in Chapter 57, article 7;

(4) Person shall mean any person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, limited liability company, company, corporation, or ~~any~~ person acting under a declaration of trust or as an operator under a lease agreement or unitization agreement;

(5) Property shall mean the right to produce crude oil or natural gas which arises from a lease, fee, or mineral interest. A property owner may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil or natural gas if such reservoir is recognized by the Nebraska Oil and Gas Conservation Commission as a producing formation that is separate and distinct from and not in communication with any other producing formation;

(6) Producer shall mean the owner of a well or wells capable of producing oil or gas or both or any person who owns and operates a lease; or a unit of producing leases in which other persons own interests, with respect to such well or wells;

(7) Stripper oil shall mean oil produced from a property where the base production level is ten or fewer barrels per day; and

(8) Nonstripper oil shall mean oil produced from a property where the base production level is more than ten barrels per day.

Sec. 352. That section 57-801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-801. As used in sections 57-801 to 57-820, unless the context otherwise requires:

(1) Person shall mean an individual, corporation, firm, partnership, limited liability company, or association;

(2) Owner shall mean a person or persons holding any interest, legal or equitable, in a leasehold interest held for oil or gas

purposes; or any pipeline, or his or her agent, and shall include purchasers under executory contract, receivers, trustees, guardians, executors, and administrators;

(3) Contract shall mean a contract, written or oral, express or implied, or partly express and partly implied, or executory or executed, or partly executory and partly executed;

(4) Material shall mean material, water, machinery, equipment, appliances, buildings, structures, tools, bits, or supplies but does not include rigs or hoists or their integral component parts except wire lines;

(5) Labor shall mean work performed in return for wages;

(6) Services shall mean work performed exclusive of labor, including the hauling of material, whether or not involving the furnishing of materials;

(7) Furnish shall mean sell or rent;

(8) Drilling shall mean drilling, digging, torpedoing, acidizing, cementing, completing, or repairing;

(9) Operating shall mean all operations in connection with or necessary to the production of oil or gas;

(10) Construction or constructing shall mean construction, maintenance, fabrication, or repair;

(11) Pipeline shall mean any pipeline laid and designed as a means of transporting natural gas, oil, or gasoline, or their components or derivatives, and the right-of-way therefor; and

(12) Original contractor shall mean any person for whose benefit a lien is prescribed by ~~the provisions of~~ section 57-802.

Sec. 353. That section 57-903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-903. As used in sections 57-901 to 57-921, unless the context otherwise requires:

(1)(a) Waste, as applied to oil, shall include underground waste, inefficient, excessive, or improper use, or dissipation of reservoir energy, including gas energy and water drive, surface waste, open pit storage, and waste incident to the production of oil in excess of the producer's aboveground storage facilities and lease and contractual requirements, but excluding storage, other than open pit storage, reasonably necessary for building up or maintaining crude stocks and products thereof for consumption, use, and sale; (b) waste, as applied to gas shall include (i) the escape, blowing, or releasing, directly or indirectly, into the open air of gas from wells productive of gas only, or gas from wells producing oil or both oil and gas and (ii) the production of gas in quantities or in such manner as will unreasonably reduce reservoir pressure or unreasonably diminish the quantity of oil or gas that might ultimately be produced, † but excluding gas that is reasonably necessary in the drilling, completing, testing, and producing of wells and gas unavoidably produced with oil if it is not economically feasible for the producer to save or use such gas; and (c) waste shall also mean the abuse of the correlative rights of any owner in a pool due to nonuniform,

disproportionate, unratable, or excessive withdrawals of oil or gas therefrom causing reasonably avoidable drainage between tracts of land or resulting in one or more owners in such pool producing more than his or her just and equitable share of the oil or gas from such pool;

(2) Commission shall mean the Nebraska Oil and Gas Conservation Commission;

(3) Person shall mean any natural person, corporation, association, partnership, limited liability company, receiver, trustee, executor, administrator, guardian, fiduciary, or other representative of any kind; and any department, agency, or instrumentality of the state or of any governmental subdivision thereof;

(4) Oil shall mean crude petroleum oil and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form and the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas; other than gas produced in association with oil and commonly known as casing-head gas;

(5) Gas shall mean all natural gas and all other fluid hydrocarbons not defined as oil;

(6) Pool shall mean an underground reservoir containing a common accumulation of oil or gas or both, † each zone of the structure which is completely separated from any other zone in the same structure is a pool; as that term is used in sections 57-901 to 57-921;

(7) Field shall mean the general area underlaid by one or more pools;

(8) Owner shall mean the person who has the right to drill into and produce from a pool and to appropriate the oil or gas he or she produces therefrom either for himself or herself or for himself or herself and others;

(9) Producer shall mean the owner of a well or wells capable of producing oil or gas or both or any person who owns and operates a lease, or a unit of producing leases in which other persons own interests, with respect to such well or wells;

(10) Correlative rights shall mean the opportunity afforded to the owner of each property in a pool to produce, so far as it is reasonably practicable to do so without waste, his or her just and equitable share of the oil or gas, or both, in the pool; and

(11) The word and shall include the word or, and the word or shall include the word and.

Sec. 354. That section 57-1201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

57-1201. As used in sections 57-1201 to 57-1214, unless the context otherwise requires:

(1) Person shall mean any natural person, firm, concern, receiver, trustee, executor, administrator, agent, institution, association, partnership, limited liability company, company, corporation, or ~~any~~ person acting under a declaration of trust;

(2) Sever shall mean to take from the land by any means whatsoever; and

(3) Uranium shall mean tri-uranium octoxide.

Sec. 355. That section 58-239, Revised Statutes Supplement, 1992, be amended to read as follows:

58-239. The authority is hereby granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes including:

(1) To have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions;

(2) To adopt, amend, and repeal bylaws, rules, and regulations not inconsistent with the Nebraska Investment Finance Authority Act, to regulate its affairs, to carry into effect the powers and purposes of the authority, and to conduct its business;

(3) To sue and be sued in its own name;

(4) To have an official seal and alter it at will;

(5) To maintain an office at such place or places within the state as it may designate;

(6) To make and execute contracts and all other instruments as necessary or convenient for the performance of its duties and the exercise of its powers and functions under the act;

(7) To employ architects, engineers, attorneys, inspectors, accountants, building contractors, financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation;

(8) To obtain insurance against any loss in connection with its bonds, property, and other assets in such amounts and from such insurers as it deems advisable;

(9) To borrow money and issue bonds as provided by the act;

(10) To receive and accept from any source aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the act subject to the conditions upon which the grants or contributions are made including gifts or grants from any department, agency, or instrumentality of the United States for any purpose consistent with the act;

(11) To enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders for the purpose of carrying out projects authorized under the act;

(12) To enter into contracts or agreements with lenders for the servicing and processing of mortgages or loans pursuant to the act;

(13) To provide technical assistance to local public bodies and to for-profit and nonprofit entities in the areas of housing for low-income and moderate-income persons, agricultural enterprises, and community or economic development, to distribute data and information concerning the needs of the state in these areas, and, at the discretion of the authority, to charge reasonable fees for such assistance;

(14) To the extent permitted under its contract with the holders of bonds of the authority, to consent to any modification with

respect to the rate of interest, time, and payment of any installment of principal or interest or any other term of any contract, loan, loan note, loan note commitment, mortgage, mortgage loan, mortgage loan commitment, lease, or agreement of any kind to which the authority is a party;

(15) To the extent permitted under its contract with the holders of bonds of the authority, to enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of the state, the reduction can be made without jeopardizing the economic stability of the project being financed;

(16) To acquire by construction, purchase, devise, gift, or lease or any one or more of such methods one or more projects located within this state, except that the authority shall not acquire any projects or parts of such projects by condemnation;

(17) To lease to others any or all of its projects for such rentals and upon such terms and conditions as the authority may deem advisable and as are not in conflict with the act;

(18) To issue bonds for the purpose of paying the cost of financing any project or projects and to secure the payment of such bonds as provided in the act;

(19) To issue bonds for the purpose of financing the costs of construction of ethanol production facilities;

(20) To sell and convey any real or personal property and make such order respecting the same as it deems conducive to the best interest of the authority;

(21) To make and undertake commitments to make loans to lenders under the terms and conditions requiring the proceeds of the loans to be used by such lenders to make loans for projects. Loan commitments or actual loans shall be originated through and serviced by any bank, trust company, savings and loan association, mortgage banker, or other financial institution authorized to transact business in the state;

(22) To invest in, purchase, make commitments to invest in or purchase, and take assignments or make commitments to take assignments of loans made by lenders for the construction, rehabilitation, or purchase of projects. No loan shall be eligible for investment in, purchase, or assignment by the authority if the loan was made more than one year prior to the date of investment, purchase, or assignment by the authority;

(23) To enter into financing agreements with others with respect to projects to provide financing for such projects upon such terms and conditions as the authority deems advisable to effectuate the public purposes of the act, which projects shall be located within the state. The authority shall not operate any project referred to in this section as a business or in any manner except as the lessor or seller of such project; and

(24) To enter into financing agreements with any

corporation, partnership, limited liability company, or individual or with any county, city, village, or joint entity created pursuant to the Interlocal Cooperation Act for purposes of financing any solid waste disposal project.

Sec. 356. That section 58-242, Revised Statutes Supplement, 1992, be amended to read as follows:

58-242. Prior to exercising any of the powers authorized by the Nebraska Investment Finance Authority Act regarding agricultural projects as defined in subdivision (2) of section 58-219, the authority shall require:

(1) That no loan will be made to any person with a net worth of more than three hundred thousand dollars;

(2) That the lender certify and agree that it will use the proceeds of such loan, investment, sale, or assignment within a reasonable period of time to make loans or purchase loans to provide agricultural enterprises or, if such lender has made a commitment to make loans to provide agricultural enterprises on the basis of a commitment from the authority to purchase such loans, such lender will make such loans and sell the same to the authority within a reasonable period of time;

(3) That the lender certify that the borrower is an individual who is actively engaged in or who will become actively engaged in an agricultural enterprise after he or she receives the loan or that the borrower is a firm, partnership, limited liability company, corporation, or other entity with all owners, partners, members, or stockholders thereof being natural persons who are actively engaged in or who will be actively engaged in an agricultural enterprise after the loan is received;

(4) That the aggregate amount of the loan received by a borrower shall not exceed five hundred thousand dollars, except that the aggregate amount of the loan received by the borrower from the proceeds of any bonds issued on or after March 28, 1991, shall not exceed two hundred fifty thousand dollars. In computing such amount a loan received by an individual shall be aggregated with those loans received by his or her spouse and children and a loan received by a firm, partnership, limited liability company, or corporation shall be aggregated with those loans received by each owner, partner, member, or stockholder thereof; and

(5) That the recipient of the loan be identified in the minutes of the authority prior to or at the time of adoption by the authority of the resolution authorizing the issuance of the bonds which will provide for financing of the loan.

Sec. 357. That section 58-245, Revised Statutes Supplement, 1992, be amended to read as follows:

58-245. (1) For each loan made, purchased, sold, assigned, or committed for use in agricultural projects as defined in subdivision (2) of section 58-219 pursuant to the provisions of the Nebraska Investment Finance Authority Act, the authority shall prepare an individual written report which includes the following information:

(a) The name and description of the lender;

- (b) The name of the loan guarantor or loan insurer, when applicable;
- (c) The amount and purpose of the loan;
- (d) A description of the agricultural enterprise for which the loan is to be used, including the county in which the enterprise is located;
- (e) The rate of interest applicable to the loan and the current interest rate in the conventional farm credit market for that locality;
- (f) The maturity date of the loan;
- (g) All conditions attaching to the loan;
- (h) The amount and description of fees associated with servicing and processing the loan;
- (i) Whether the borrower is an individual farmer, a farm partnership, a farm limited liability company, a farm corporation, or another farm entity;
- (j) The age of the borrower or, if the borrower is a farm partnership, a farm limited liability company, a farm corporation, or another farm entity, the ages of all of the owners, partners, or stockholders; and
- (k) A statement of the gross farm sales, total assets, total liabilities, and net worth of each borrower.

(2) The authority shall also prepare, following the close of each fiscal year, a report which summarizes the individual loan reports required by subsection (1) of this section setting forth the following information regarding loans made during the immediately preceding fiscal year:

- (a) The number of loans;
- (b) The average principal amount of such loans;
- (c) The average interest rate savings with respect to such loans;
- (d) The average age of the borrowers;
- (e) The average net worth of the borrowers; and
- (f) A comparison of the items listed in subdivisions (a) through (e) of this subsection to the information included in the summary report for the prior year.

Sec. 358. That section 58-404, Revised Statutes Supplement, 1992, be amended to read as follows:

58-404. For purposes of the Research and Development Authority Act, unless the context otherwise requires:

- (1) Applied research shall mean those research activities which have significant potential commercial application;
- (2) Authority shall mean the Research and Development Authority;
- (3) Board shall mean the authority's governing board;
- (4) Business development corporation shall mean a development corporation organized under the Nebraska Business Development Corporation Act;
- (5) Educational institutions shall mean nonprofit public and

private colleges, community colleges, state colleges, and universities;

(6) Enterprise shall mean a firm which is engaged or proposes to be engaged in the development and commercialization of new products or processes within the state;

(7) Innovation shall mean any new technology product or process without regard to whether a patent has or could be granted;

(8) New technology shall mean the development through science or research methods, processes, and procedures;

(9) Person shall mean any individual, partnership, limited liability company, corporation, or joint venture carrying on business or proposing to carry on business within the state;

(10) Product shall mean any product, device, technique, or process which is or may be exploitable commercially. Product shall not mean pure or basic research but shall mean such products, devices, techniques, or processes which have advanced beyond the theoretical stage and are in a prototype or practice stage;

(11) Qualified security shall mean any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest, or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a security or any certificate for, receipt for, guarantee of, option, warrant, right to subscribe to, or purchase of any of the foregoing to the extent allowed by the Nebraska Constitution;

(12) Seed capital shall mean financing that is provided for the development, refinement, and commercialization of a product, process, or innovation, whether for the startup of a new enterprise or the expansion of an existing enterprise;

(13) Target area shall mean a census tract within a city of the metropolitan class, at least fifty percent of the residents of which census tract are members of a minority racial group and more than twenty percent of the residents of which census tract have an annual income below the poverty level, as determined by the 1980 federal census, and which tract meets at least two of the following conditions, as determined by the 1980 federal census:

(a) Seventy percent or more of the households in such census tract have an annual income which is less than eighty percent of the median family income of the city of the metropolitan class in which such census tract is located;

(b) Nine percent or more of the labor force residing in such census tract is unemployed; and

(c) Such census tract lost twenty percent or more of its population between the years 1970 and 1980; and

(14) Value-added industries shall mean industries within the state which export Nebraska goods and services and import jobs, income,

and wealth into the state.

Sec. 359. That section 59-804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-804. The Attorney General of this state may at any time require of any corporation, joint-stock company, limited liability company, or other association engaged in business within this state, any statement he or she may think fit in regard to the conduct of its business. He or she may especially require any such corporation, joint-stock company, limited liability company, or other association; to give a list of all contracts or transactions entered into within the twelve months preceding such requisition; in which it has sold any article or product; or carried any article or product within this state at a rate less than the ordinary market price; if such article or product has been sold or carried by any other person than the party to such transaction. He or she ~~and he~~ may further require the reasons for such distinction and the circumstances attending the same.

Sec. 360. That section 59-805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-805. Every person, corporation, joint-stock company, limited liability company, or other association engaged in business within this state, ~~who shall enter~~ which enters into any contract, combination, or conspiracy; or ~~who shall give~~ which gives any direction or authority to do any act for the purpose of driving out of business any other person engaged therein; or ~~who~~ which for such purpose ~~shall~~ in the course of such business ~~sell~~ sells any article or product at less than its fair market value; or at a less price than it is accustomed to demand or receive therefor in any other place under like conditions; or ~~who shall sell~~ which sells any article upon a condition, contract, or understanding that it shall not be sold again by the purchaser; or ~~restrain~~ restrains such sale by the purchaser; shall be deemed guilty of a Class IV felony.

Sec. 361. That section 59-806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-806. No corporation, joint-stock company, limited liability company, or other association shall engage in business within this state, a majority of whose stock is owned by or controlled or held in trust for any manufacturing or other corporation, which, in the course of its manufacture or production, conducts its business, or any part thereof, in a manner which would be prohibited by sections 59-801 to 59-828; if it were so conducted in the course of such business within this state.

Sec. 362. That section 59-807, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-807. All the books of record and papers of every such corporation, joint-stock company, limited liability company, or other association engaged in business within this state; shall be subject to inspection by the Attorney General of this state; or by any agent he or she may designate for that purpose, and such corporation, joint-stock company, limited liability company, or other association shall, at such times as he or she shall prescribe, make such further returns, verified as

aforesaid as shall be by him or her prescribed, either by general regulations or by special direction.

Sec. 363. That section 59-808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-808. Any president, director, treasurer, officer, corporator, ~~copartner~~ partner, member, associate, or agent of such corporation, joint-stock company, limited liability company, or other association; who ~~shall~~ does in its behalf ~~do~~ anything prohibited by sections 59-801 to 59-828 ~~prohibited to such corporation, joint-stock company or other association~~; or who shall support, vote for, aid and abet, or take supports, votes for, aids and abets, or takes part in doing such action by ~~said~~ the corporation, joint-stock company, limited liability company, or other association, or any instrumentality thereof, shall be liable to the penalties by law provided.

Sec. 364. That section 59-809, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-809. No corporation, joint-stock company, limited liability company, or other association; which ~~shall manufacture or produce~~ manufactures or produces any article for sale or transportation within this state and which ~~shall do~~ does any of the acts or things prohibited to be done by sections 59-801 to 59-828; shall engage in business within this state.

Sec. 365. That section 59-810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-810. Any corporation, joint-stock company, limited liability company, or other association, ~~that shall have~~ which has been once adjudged to have violated the provisions of sections 59-801 to 59-828 by the final judgment of any court having jurisdiction of the question; in any civil suit or proceeding in which such corporation, joint-stock company, limited liability company, or other association ~~shall have been~~ was a party, which ~~shall~~ thereafter violates any of ~~said~~ such sections; or which ~~shall fail~~ fails to make the returns herein required at the times specified; shall no longer be allowed to engage in business within this state. Such; ~~PROVIDED, such~~ prohibition shall only be enforced after such corporation, joint-stock company, limited liability company, or other association ~~shall have~~ has been enjoined against further engaging in such business on an information or suit brought in a court of competent jurisdiction by the Attorney General in behalf of this state.

Sec. 366. That section 59-811, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-811. It shall be the duty of the Attorney General in such case, unless he ~~shall be~~ or she is satisfied that such corporation, joint-stock company, limited liability company, or other association has desisted and abstained and will in the future desist and abstain from such violation, to enforce the provision by proceeding, either by information or by indictment, as he ~~or she~~ may in his or her discretion think best.

Sec. 367. That section 59-812, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

59-812. Any corporation, joint-stock company, limited liability company, or other association which ~~shall be~~ is charged with violating any of the provisions of sections 59-801 to 59-828; and any president, director, treasurer, officer, member, or agent thereof; may be joined as a party in any proceeding, civil or criminal, to enforce ~~said~~ such sections.

Sec. 368. That section 59-813, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-813. If, in the judgment of the Attorney General, such corporation, joint-stock company, limited liability company, or other association against which any civil proceeding may be instituted is one upon which the public is so depending that the interruption of its business will cause serious public loss or inconvenience, he or she may, in his or her discretion, refrain from proceeding to obtain a decree which will absolutely prevent the continuance of such business; and may apply for a limited or conditional decree, or one to take effect at a future day, as the public interest shall seem to require. If, in the judgment of the court before whom such proceeding may be pending, the interruption of the business of the defendant corporation, joint-stock company, limited liability company, or other association will cause such serious public loss or inconvenience, the court may decline to enter an absolute decree enjoining it against proceeding with its business; and may enter a modified or conditional decree; or a decree to take effect at a future time as justice shall require.

Sec. 369. That section 59-814, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-814. The court may also, in its discretion, enjoin such officers, ~~or~~ agents, ~~or~~ servants, or members of such corporation, joint-stock company, limited liability company, or other association from continuing in its service; and enjoin any such corporation, joint-stock company, limited liability company, or other association from continuing their employment therein; as the case shall seem to require.

Sec. 370. That section 59-815, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-815. Any corporation, joint-stock company, limited liability company, or other association, and any president, director, treasurer, officer, corporator, ~~co~~partner partner, member, associate, or agent thereof; who ~~shall~~ in its behalf engage engages in such business in violation of sections 59-801 to 59-828; shall for each offense, in addition to such penalty for contempt as the court in case of disobedience to its lawful order may impose, be guilty of a Class IV felony.

Sec. 371. That section 59-816, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-816. Every president, treasurer, general manager, agent, or other person usually exercising the powers of such officers of any corporation, joint-stock company, limited liability company, or other

association; who has himself or herself, in its behalf, violated, united to violate, or voted for or consented to the violation of any of the provisions of sections 59-801 to 59-828; shall thereafter be personally liable for all the debts and obligations of any such corporation, joint-stock company, limited liability company, or other association created while such person holds such office or agency, whether under the same or subsequent elections or appointments.

Sec. 372. That section 59-818, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-818. If any joint-stock company, corporation, limited liability company, or combination; or any agent thereof ~~shall solicit, accept or receive~~ solicits, accepts, or receives any such rebate, concession, or service as is hereinbefore declared to be unlawful, it shall be unlawful thereafter to transport within this state any article owned or controlled by such company, corporation, limited liability company, or combination, or produced or manufactured by it, by whomsoever the same may be owned or controlled. If any such joint-stock company, corporation, limited liability company, or combination ~~shall offer, grant or give offers, grants, or gives~~ any special prices, inducements, or advantages for the sale of articles produced, manufactured, owned, or controlled by it to purchasers in any particular locality in order to restrict or destroy competition in that locality in the sale of such articles, it shall be unlawful thereafter to transport within this state any article owned or controlled by it, or produced or manufactured by it, by whomsoever the same may be owned or controlled. ~~The ; PROVIDED, HOWEVER, the~~ prohibition imposed under this section shall not apply to any article purchased bona fide before decree made in pursuance thereof against the joint-stock company, corporation, limited liability company, or combination producing, manufacturing, or theretofore owning or controlling the same, ~~and ; AND PROVIDED FURTHER;~~ even after decree, any such article may be relieved from the prohibition imposed under this section if the owner thereof ~~shall show~~ shows to the satisfaction of the court having jurisdiction of the matter hereinafter provided that such article was purchased bona fide, without notice, and within thirty days after the entry of such decree. Any transportation company, and any officer, agent, or representative thereof, knowingly concerned in the transportation of articles within this state, contrary to the prohibitions of this section, shall be punished by a fine of not less than five thousand dollars.

Sec. 373. That section 59-819, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-819. The several courts of record of this state having equity jurisdiction are hereby invested with jurisdiction to prevent and restrain all violations of sections 59-801 to 59-828; and especially the offering, granting, giving, soliciting, accepting, or receiving any such rebate, concession, or service by any person or persons; and to prevent or restrain any such joint-stock company, corporation, limited liability company, or combination; which ~~shall have~~ has solicited, accepted, or received any such rebate, concession, or service; or which ~~shall have~~

has offered, granted, or given any special prices, inducements, or advantages in order to restrict or destroy competition in particular localities from engaging in commerce within this state. Such proceedings may be by way of complaint setting forth the cause of action and praying that the acts hereby made unlawful shall be enjoined or otherwise prohibited. When the parties complained of ~~shall be~~ are duly notified of such complaint, the court shall proceed as soon as may be to the hearing and determination of the case, and upon such complaint and before final decree the court may at any time make such temporary restraining order or prohibition as shall be deemed just. The court may retain jurisdiction of the cause after the decree for the purpose of such subsequent modification of the same as may be made to appear equitable and just in the premises.

Sec. 374. That section 59-822, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-822. The words person or persons, as used in sections 59-801 to 59-828, shall be deemed to include all corporations, associations, limited liability companies, combinations, or concerns whatsoever.

Sec. 375. That section 59-830, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-830. No criminal action may be maintained under Chapter 59, against any person, corporation, organization, limited liability company, or association for acting pursuant to and under the authority of any state or federal law. It is the purpose of this section to reaffirm that a person may rely on the validity of any state or federal law until declared invalid.

Sec. 376. That section 59-1401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1401. As used in sections 59-1401 to 59-1406, person means any individual, resident or nonresident; of this state, and every domestic, foreign, or alien partnership, limited liability company, society, association, or corporation; and the words performing rights refer to public performance for profit.

Sec. 377. That section 59-1502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1502. As used in the Unfair Cigarette Sales Act, unless the context otherwise requires:

(1) Person shall mean and include any individual, firm, association, company, partnership, limited liability company, corporation, joint-stock company, club, agency, syndicate, municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator;

(2) Cigarettes shall mean and include any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco;

(3) Sale shall mean any transfer for a consideration, exchange, barter, gift, offer for sale, or distribution in any manner or by any means whatsoever;

(4) Wholesaler shall include any person who:

(a) Purchases cigarettes directly from the manufacturer;

(b) Purchases cigarettes from any other person who purchases from the manufacturer and who acquires such cigarettes solely for the purpose of bona fide resale to retail dealers or to other persons for the purpose of bona fide resale to retail dealers or to other persons for the purpose of resale only; or

(c) Services retail outlets by the maintenance of an established place of business for the purchase of cigarettes, including, but not limited to, the maintenance of warehousing facilities for the storage and distribution of cigarettes.

Nothing in the Unfair Cigarette Sales Act shall prevent a person from qualifying in different capacities as both a wholesaler and retailer under the applicable provisions of the act;

(5) Retailer shall mean and include any person who operates a store, stand, booth, or concession for the purpose of making sales of cigarettes at retail, including sales through vending machines;

(6) Sell at retail, sale at retail, and retail sales shall mean and include any transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or usual conduct of the seller's business, to the purchaser for consumption or use, including sales through vending machines;

(7) Sell at wholesale, sale at wholesale, and wholesale sales shall mean and include any bona fide transfer of title to cigarettes for a valuable consideration, made in the ordinary course of trade or in the usual conduct of the wholesaler's business, to a retailer for the purpose of resale;

(8) Basic cost of cigarettes shall mean the invoice cost of cigarettes to the retailer or wholesaler, as the case may be, or the replacement cost of cigarettes to the retailer or wholesaler, as the case may be, in the quantity last purchased, whichever is lower, less all trade discounts and the normal discount for cash afforded for prompt payment, but excluding any special, extraordinary, or anticipatory discounts for payment within a shorter period of time than the prompt payment date required for eligibility for the normal discount for cash, to which shall be added the full value of any stamps which may be required by any cigarette tax act of this state and by ordinance of any municipality of this state in effect or hereafter enacted, if not already included by the manufacturer in his or her list price;

(9) Division shall mean the cigarette tax division of the Tax Commissioner; and

(10) Business day shall mean any day other than a Sunday or legal holiday.

Sec. 378. That section 59-1601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1601. For purposes of ~~sections 59-1601 to 59-1622~~ the Consumer Protection Act, unless the context otherwise requires:

(1) Person shall mean natural persons, corporations, trusts, unincorporated associations, ~~and~~ partnerships, and limited liability companies;

(2) Trade and commerce shall mean the sale of assets or services; and any commerce directly or indirectly affecting the people of the State of Nebraska; and

(3) Assets shall mean any property, tangible or intangible, real, personal, or mixed, and wherever situated, and any other thing of value.

Sec. 379. That section 59-1704, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1704. Person shall mean ~~an~~ any individual, corporation, partnership, limited liability company, joint venture, or ~~any~~ business entity.

Sec. 380. That section 59-1735, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1735. The disclosure document required by section 59-1732 shall contain the following:

(1) The name of and the office held by the seller's officers, directors, trustees, ~~and~~ general or limited partners, and members, as the case may be, and the names of those individuals who have management responsibilities in connection with the seller's business activities;

(2) A statement whether any person identified in subdivision (1) of this section:

(a) Has been convicted of a felony or misdemeanor or pleaded nolo contendere to a felony or misdemeanor charge if such felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(b) Has been held liable in a civil action by final judgment or consented to the entry of a stipulated judgment if the civil action alleged fraud, embezzlement, fraudulent conversion, or misappropriation of property or the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property or the use of unfair, unlawful, or deceptive business practices; or

(c) Is subject to any currently effective injunction or restrictive order relating to business activity as the result of an action brought by a public agency or department, including, but not limited to, action affecting any vocational license; and

(3) With respect to persons identified in subdivision (1) of this section:

(a) A description of their work experience for the past five years, including a list of principal occupations and employers during such time. Such five-year period shall run from the date of the disclosure filed with the Department of Banking and Finance; and

(b) A listing of each such person's educational background, including the names of schools attended and degrees received.

Sec. 381. That section 59-1739, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1739. The disclosure document required by section 59-1732 shall contain a copy of a financial statement of the seller, not more than twelve months old, together with a statement of any material changes in the financial condition of the seller from the date thereof. Such financial statement shall either be audited or be signed under penalty of perjury by one of the seller's officers, directors, trustees, ~~or~~ general or limited partners, or members. The declaration under penalty of perjury shall indicate that to the best of the signatory's knowledge and belief the information in the financial statement is true and accurate. If a seller is a subsidiary of another corporation which is permitted by generally accepted accounting standards to prepare financial statements on a consolidated basis, the information required by this section may be submitted in the same manner for the parent corporation if the corresponding financial statement of the seller is also provided and the parent corporation absolutely and irrevocably has agreed to guarantee all obligations of the seller.

Sec. 382. That section 59-1742, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

59-1742. Every seller-assisted marketing plan contract shall set forth in at least ten-point type or equivalent size if handwritten, the following:

- (1) The terms and conditions of payment including the initial payment, additional payments, and downpayment required;
- (2) A full and detailed description of the acts or services the seller will undertake to perform for the purchaser;
- (3) The seller's principal business address and the name and address of its agent in the State of Nebraska authorized to receive service of process;
- (4) The business form of the seller, whether corporate a corporation, partnership, limited liability company, or otherwise;
- (5) The delivery date or, when the contract provides for a staggered delivery of items to the purchaser, the approximate delivery date of those products, equipment, or supplies the seller is to deliver to the purchaser to enable the purchaser to begin or maintain his or her business and whether the products, equipment, or supplies are to be delivered to the purchaser's home or business address or are to be placed or caused to be placed by the seller at locations owned or managed by persons other than the purchaser;
- (6) A complete description of the nature of the buy-back or security arrangement, if the seller has represented orally or in writing when selling or leasing, soliciting, or offering a seller-assisted marketing plan that there is a buy-back or that the initial payment is secured; and
- (7) A statement which accurately sets forth a purchaser's right to void the contract under the circumstances and in the manner set forth in sections 59-1752 to 59-1755.

Sec. 383. That section 60-476, Revised Statutes

Supplement, 1992, be amended to read as follows:

60-476. Person shall mean every natural person, firm, partnership, limited liability company, association, or corporation.

Sec. 384. That section 60-4,173, Revised Statutes Supplement, 1992, be amended to read as follows:

60-4,173. For purposes of sections 60-4,173 to 60-4,179:

(1) Commercial driver training school or school shall mean a business enterprise conducted by an individual, association, partnership, limited liability company, or corporation which educates or trains persons to operate or drive motor vehicles or which furnishes educational materials to prepare an applicant for an examination by the state for an operator's license or LPD-learner's or LPE-learner's permit and which charges consideration or tuition for such service or materials; and

(2) Instructor shall mean any person who operates a commercial driver training school or who teaches, conducts classes, gives demonstrations, or supervises practical training of persons learning to operate or drive motor vehicles in connection with operation of a commercial driver training school.

Sec. 385. That section 60-501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-501. For purposes of ~~sections 60-501 to 60-569~~ the Motor Vehicle Safety Responsibility Act, unless the context otherwise requires:

(1) Department means Department of Motor Vehicles;

(2) Judgment means any judgment which shall have become final by the expiration of the time within which an appeal might have been perfected without being appealed, or by final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, (a) upon a cause of action arising out of the ownership, maintenance, or use of any motor vehicle for damages, including damages for care and loss of services, because of bodily injury to or death of any person or for damages because of injury to or destruction of property, including the loss of use thereof, or (b) upon a cause of action on an agreement of settlement for such damages;

(3) License means any license issued to any person under the laws of this state pertaining to operation of a motor vehicle within this state;

(4) Motor vehicle means any self-propelled vehicle which is designed for use upon a highway, including trailers designed for use with such vehicles, except (a) mopeds, (b) traction engines, (c) road rollers, (d) farm tractors, (e) tractor cranes, (f) power shovels, (g) well drillers, (h) every vehicle which is propelled by electric power obtained from overhead wires but not operated upon rails, and (i) off-road designed vehicles, including, but not limited, to golf carts, go-carts, riding lawnmowers, garden tractors, all-terrain vehicles as defined in section 60-2801, and snowmobiles;

(5) Nonresident means every person who is not a resident of this state;

(6) Nonresident's operating privilege means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by him or her of a motor vehicle; or the use of a motor vehicle owned by him or her; in this state;

(7) Operator means every person who is in actual physical control of a motor vehicle;

(8) Owner means a person who holds the legal title of a motor vehicle, or in the event (a) a motor vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or (b) a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purposes of sections 60-501 to 60-569;

(9) Person means every natural person, firm, partnership, limited liability company, association, or corporation;

(10) Proof of financial responsibility means evidence of ability to respond in damages for liability, on account of accidents occurring subsequent to the effective date of such proof, arising out of the ownership, maintenance, or use of a motor vehicle, (a) in the amount of twenty-five thousand dollars because of bodily injury to or death of one person in any one accident, (b) subject to such limit for one person, in the amount of fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and (c) in the amount of twenty-five thousand dollars because of injury to or destruction of property of others in any one accident;

(11) Registration means registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of motor vehicles;

(12) State means any state, territory, or possession of the United States, the District of Columbia, or any province of the Dominion of Canada; and

(13) The forfeiture of bail, not vacated, or of collateral deposited to secure an appearance for trial shall be regarded as equivalent to conviction of the offense charged.

Sec. 386. That section 60-1201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1201. It shall be unlawful for any motor carrier of passengers or freight for hire, whether individually owned, a partnership, a limited liability company, or a corporation, the officers, agents, and servants of such motor carrier, to require or permit any driver or operator of a bus, truck, or motor vehicle, owned or operated by such carrier within this state, to drive or operate such bus, truck, or motor vehicle, or to remain on duty, for more than twelve hours of a consecutive period of twenty-four hours. Whenever such driver or operator shall have been on duty for twelve hours of a consecutive period of twenty-four hours, such driver or operator shall be relieved from duty, and ~~he~~ shall not be permitted nor required by his or her employer to remain on duty, or to

drive or operate a bus, truck, or motor vehicle, operated for hire, until the expiration of the off-duty period herein defined. ~~Sections 60-1201 and 60-1202 shall not apply to taxicabs while driven and operated within the corporate boundaries of a city or village; AND PROVIDED, FURTHER, the provisions of said sections~~ and shall not apply in any case of collision, casualty, unavoidable accident requiring emergency service, an emergency which, with reasonable care, could not have been foreseen and guarded against, or an act of God.

Sec. 387. That section 60-1202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1202. Any person, partnership, limited liability company, or corporation; doing business as a motor carrier as described in section 60-1201; or any officer, agent, or servant thereof; requiring or permitting any bus, truck, or motor vehicle driver to drive or operate any such bus, truck, or motor vehicle for hire; or to be or remain on duty in violation of ~~the provisions of said~~ such section shall be deemed guilty of a Class IV misdemeanor.

Sec. 388. That section 60-1401.02, Revised Statutes Supplement, 1992, be amended to read as follows:

60-1401.02. For purposes of Chapter 60, article 14, and sections 60-2601 to 60-2607, unless the context otherwise requires:

(1) Person shall mean every natural person, firm, ~~or partnership~~ partnership, limited liability company, association, or corporation;

(2) Association shall mean any two or more persons acting with a common purpose, regardless of the relative degrees of involvement, and shall include, but not be limited to, the following persons so acting:

(a) A person and one or more of his or her family members. For purposes of this subdivision, family member shall mean an individual related to the person by blood, marriage, adoption, or legal guardianship as the person's spouse, child, parent, brother, sister, grandchild, grandparent, ward, or legal guardian or any individual so related to the person's spouse; and

(b) Two or more persons living in the same dwelling unit, whether or not related to each other;

(3) Motor vehicle dealer shall mean any person engaged in the business of selling or exchanging new or used motor vehicles and trailers who buys, sells, exchanges, causes the sale of, or offers or attempts to sell five or more new or used motor vehicles in any one calendar year. Such person shall be deemed to be a motor vehicle dealer and subject to Chapter 60, article 14;

(4) Trailer dealer shall mean any person engaged in the business of selling or exchanging new or used trailers, and any person who buys, sells, exchanges, or offers or attempts to sell three or more new or used trailers in any one calendar year shall be deemed to be a trailer dealer and subject to Chapter 60, article 14;

(5) Wrecker or salvage dealer shall mean any person who acquires one or more motor vehicles or trailers solely for the purpose of

dismantling them for the purpose of reselling the parts or reselling the vehicles as scrap;

(6) Motor vehicle shall mean any vehicle for which evidence of title is required as a condition precedent to registration under the laws of this state but shall not include trailers;

(7) Used motor vehicle shall mean every motor vehicle which has been sold, bargained, exchanged, given away, or for which title has been transferred from the person who first acquired it from the manufacturer, importer, dealer, or agent of the manufacturer or importer. A new motor vehicle shall not be considered a used motor vehicle until it has been placed in a bona fide consumer use, notwithstanding the number of transfers of such motor vehicle. Bona fide consumer use shall mean actual operation by an owner who acquired the vehicle for use in business or for pleasure purposes, who has been granted a certificate of title on such motor vehicle, and who has registered such motor vehicle, all in accordance with the laws of the residence of the owner;

(8) New motor vehicle shall mean all motor vehicles which are not included within the definition of a used motor vehicle in this section;

(9) Trailer shall mean trailers and semitrailers as defined in section 60-301 which are required to be licensed as commercial trailers, other vehicles without motive power constructed so as to permit their being used as conveyances upon the public streets and highways and so constructed as not to be attached to real estate and to permit the vehicle to be used for human habitation by one or more persons, and camping trailers, slide-in campers, fold-down campers, and fold-down tent trailers. Machinery and equipment to which wheels are attached and designed for being drawn by a motor vehicle shall be excluded from the provisions of Chapter 60, article 14;

(10) Motorcycle dealer shall mean any person engaged in the business of selling or exchanging new or used motorcycles, and any person who buys, sells, exchanges, or offers or attempts to sell three or more new or used motorcycles in any one calendar year shall be deemed to be a motorcycle dealer and subject to Chapter 60, article 14;

(11) Motorcycle shall mean every motor vehicle, except a tractor, having a seat or saddle for use of the rider and designed to travel on not more than three wheels in contact with the ground and for which evidence of title is required as a condition precedent to registration under the laws of this state;

(12) Auction shall mean a sale of motor vehicles and trailers of types required to be registered in this state, except such vehicles as are eligible for registration pursuant to section 60-305.09, sold or offered for sale at which the price offered is increased by the prospective buyers who bid against one another, the highest bidder becoming the purchaser. The holding of a farm auction or an occasional motor vehicle or trailer auction of not more than two auctions in a calendar year shall not be construed as constituting an auction subject to Chapter 60, article 14;

(13) Auction dealer shall mean any person engaged in the business of conducting an auction for the sale of motor vehicles and trailers as defined in this section;

(14) Supplemental motor vehicle, trailer, motorcycle, or motor vehicle auction dealer shall mean any person holding either a motor vehicle, trailer, motorcycle, or motor vehicle auction dealer's license engaging in the business authorized by such license at a place of business that is more than three hundred feet from any part of the place of business designated in the dealer's original license but which is located within the city or county described in such original license;

(15) Motor vehicle, motorcycle, or trailer salesperson shall mean any person who, for a salary, commission, or compensation of any kind, is employed directly by only one specified licensed Nebraska motor vehicle dealer, motorcycle dealer, or trailer dealer, except when the salesperson is working for two or more dealerships with common ownership, to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles, motorcycles, or trailers. A person owning any part of more than one dealership may be a salesperson for each of such dealerships. Common ownership is defined for the purpose of this section to mean that there is at least an eighty percent interest in each dealership by one or more persons having ownership in such dealership;

(16) Manufacturer shall mean any person, resident or nonresident of this state, who is engaged in the business of distributing, manufacturing, or assembling new motor vehicles, trailers, or motorcycles, and also shall have the same meaning as the term franchisor as used in Chapter 60, article 14;

(17) Factory representative shall mean a representative employed by a person who manufactures or assembles motor vehicles, motorcycles, or trailers, or by a factory branch, for the purpose of promoting the sale of its motor vehicles, motorcycles, or trailers to, or for supervising or contacting, its dealers or prospective dealers in this state;

(18) Distributor shall mean a person, resident or nonresident of this state, who in whole or in part sells or distributes new motor vehicles, trailers, or motorcycles to dealers or who maintains distributors or representatives who sell or distribute motor vehicles, trailers, or motorcycles to dealers, and shall also have the same meaning as the term franchisor as used in Chapter 60, article 14;

(19) Finance company shall mean any person engaged in the business of financing sales of motor vehicles, motorcycles, or trailers, or purchasing or acquiring promissory notes, secured instruments, or other documents whereby such motor vehicles, motorcycles, or trailers are pledged as security for payment of obligations arising from such sales and who may find it necessary to engage in the activity of repossession and the sale of the motor vehicles, motorcycles, or trailers so pledged;

(20) Franchise shall mean a contract between two or more persons when all of the following conditions are included:

(a) A commercial relationship of definite duration or

continuing indefinite duration is involved;

(b) The franchisee is granted the right to offer and sell motor vehicles manufactured or distributed by the franchisor;

(c) The franchisee, as an independent business, constitutes a component of the franchisor's distribution system;

(d) The operation of the franchisee's business is substantially associated with the franchisor's trademark, service mark, trade name, advertising, or other commercial symbol designating the franchisor; and

(e) The operation of the franchisee's business is substantially reliant on the franchisor for the continued supply of motor vehicles, parts, and accessories;

(21) Franchisee shall mean a new motor vehicle dealer who receives motor vehicles from the franchisor under a franchise and who offers and sells such motor vehicles to the general public;

(22) Franchisor shall mean a person who manufactures or distributes motor vehicles and who may enter into a franchise;

(23) Community shall mean a franchisee's area of responsibility as stipulated in the franchise;

(24) Consumer care shall mean the performance, for the public, of necessary maintenance and repairs to motor vehicles;

(25) Sale, selling, and equivalent expressions shall mean the attempted act or acts either as principal, agent, or salesperson or in any capacity whatsoever of selling, bartering, exchanging, or otherwise disposing of or negotiating or offering or attempting to negotiate the sale, purchase, or exchange of or interest in any motor vehicle, trailer, or motorcycle, including the leasing thereof with a right or option to purchase under the terms of the lease;

(26) Established place of business shall mean a permanent location within this state, easily accessible to the public, owned or leased by the applicant or a licensee for at least the term of the license year, and conforming with applicable zoning laws, at which the licensee conducts the business for which he or she is licensed and may be contacted by the public during posted reasonable business hours which shall be not less than forty hours per week. The established place of business shall have the following facilities: (a) Office space in a building or mobile home, which space shall be clean, dry, safe, and well lighted and in which shall be kept and maintained all books, records, and files necessary for the conduct of the licensed business, which premises, books, records, and files shall be available for inspection during regular business hours by any peace officer or investigator employed or designated by the board. Dealers shall, upon demand of the board's investigator, furnish copies of records so required when conducting any investigation of a complaint; (b) a sound and well-maintained sign which is legible from a public road and displayed with letters not less than eight inches in height and one contiguous area to display ten or more motor vehicles, motorcycles, or trailers in a presentable manner; (c) adequate repair facilities and tools to properly and actually service warranties on motor vehicles, motorcycles,

or trailers sold at such place of business and to make other repairs arising out of the conduct of the licensee's business or, in lieu of such repair facilities, the licensee may enter into a contract for the provision of such service and file a copy thereof annually with the board and shall furnish to each buyer a written statement as to where such service will be provided as required by section 60-1417. The service facility shall be located in the same county as the licensee unless the board specifically authorizes the facility to be located elsewhere. Such facility shall maintain regular business hours and shall have suitable repair equipment and facilities to service and inspect the type of vehicles sold by the licensee. Investigators of the board may certify ongoing compliance with the service and inspection facilities or repair facilities; and (d) an operating telephone connected with a public telephone exchange and located on the premises of the established place of business with a telephone number listed by the public telephone exchange and available to the public during the required posted business hours. A mobile truck equipped with repair facilities to properly perform warranty functions and other repairs shall be deemed adequate repair facilities for trailers. The above requirements shall not apply to the place of business authorized under a supplemental motor vehicle, motorcycle, or trailer dealer's license;

(27) Retail, when used to describe a sale, shall mean a sale to any person other than a licensed dealer of any kind within the definitions of this section;

(28) Factory branch shall mean a branch office maintained in this state by a person who manufactures, assembles, or distributes motor vehicles, motorcycles, or trailers for the sale of such motor vehicles, motorcycles, or trailers to distributors or dealers or for directing or supervising, in whole or in part, its representatives in this state;

(29) Distributor representative shall mean a representative employed by a distributor or distributor branch for the same purpose as set forth in the definition of factory representative in this section;

(30) Board shall mean the Nebraska Motor Vehicle Industry Licensing Board;

(31) Scrap metal processor shall mean any person engaged in the business of buying vehicles, motorcycles, or parts thereof for the purpose of remelting or processing into scrap metal or who otherwise processes ferrous or nonferrous metallic scrap for resale. No scrap metal processor shall sell vehicles or motorcycles without obtaining a wrecker or salvage dealer license;

(32) Designated family member shall mean the spouse, child, grandchild, parent, brother, or sister of the owner of a new motor vehicle dealership who, in the case of the owner's death, is entitled to inherit the ownership interest in the new motor vehicle dealership under the terms of the owner's will, who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of such dealership, has been appointed by a court as the legal representative of the new motor vehicle dealer's property; and

(33) This act shall mean Chapter 60, article 14.

Nothing in Chapter 60, article 14, shall apply to the State of Nebraska or any of its agencies or subdivisions. No insurance company, finance company, public utility company, fleet owner, or other person coming into possession of any motor vehicle, motorcycle, or trailer, as an incident to its regular business, who shall sell or exchange such motor vehicle, motorcycle, or trailer shall be considered a dealer as defined in this section, except persons whose regular business is leasing or renting motor vehicles, motorcycles, or trailers.

Sec. 389. That section 60-1406, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1406. Licenses issued by the board under Chapter 60, article 14, shall be of the classes hereinafter set out and shall permit the following described business activities:

(1) Motor vehicle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new, used, or new and used motor vehicles and trailers as defined in section 60-1401.02; at the established place of business designated in such license and another place or places of business located within three hundred feet of such designated place of business and within the city or county described in such original license. This license shall permit the sale of a trade-in or consignment mobile home greater than forty feet in length and eight feet in width and located at a place other than the dealer's established place of business. This license shall permit one person, either the licensee, if he or she is the individual owner of such licensed business, or a stockholder, officer, ~~or co-partner~~ partner, or member of such licensee, to act as a motor vehicle and trailer salesperson and the name of such authorized person shall appear on the license;

(2) Motor vehicle, motorcycle, or trailer salesperson license. This license shall permit the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer salesperson as defined in section 60-1401.02. This license shall permit the one person named thereon to act as a salesperson;

(3) Manufacturer license. This license shall permit the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer manufacturer, or manufacturer's factory branch as defined in section 60-1401.02;

(4) Distributor license. This license shall permit the licensee to engage in the activities of a motor vehicle, motorcycle, or trailer distributor as defined in section 60-1401.02;

(5) Factory representative license. This license shall permit the licensee to engage in the activities of a factory branch representative as defined in section 60-1401.02;

(6) Factory branch license. This license shall permit the licensee to maintain a branch office; as defined in section 60-1401.02; in this state;

(7) Distributor representative license. This license shall permit the licensee to engage in the activities of a distributor representative as defined in section 60-1401.02;

(8) Finance company license. This license, as defined in section 60-1401.02, shall permit the licensee to engage in the activities of repossession of motor vehicles or trailers and the sale of such motor vehicles or trailers so repossessed;

(9) Wrecker or salvage dealer license. This license shall permit the licensee to engage in the business of acquiring motor vehicles or trailers solely for the purpose of dismantling the motor vehicles or trailers and selling or otherwise disposing of the parts and accessories thereof as defined in section 60-1401.02;

(10) Supplemental motor vehicle, motorcycle, or trailer dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging motor vehicles, motorcycles, or trailers of the type designated in his or her dealer's license at a specified place of business which is located more than three hundred feet from any part of the place of business designated in the original motor vehicle, motorcycle, or trailer dealer's license but which is located within the city or county described in such original license;

(11) Motorcycle dealer's license. This license shall permit the licensee to engage in the business of selling or exchanging new, used, or new and used motorcycles, as defined in section 60-1401.02, at the established place of business designated in such license and another place or places of business located within three hundred feet of such designated place of business and within the city or county described in such original license. This form of license shall permit one person named thereon, either the licensee, if he or she is the individual owner of such licensed business, or a stockholder, officer, ~~or copartner~~ partner, or member of such licensee, to act as a motorcycle salesperson and the name of such authorized person shall appear on the license; and

(12) Motor vehicle auction dealer's license. This license shall permit the licensee to engage in the business of selling motor vehicles and trailers as defined in section 60-1401.02. This form of license shall permit one person named thereon, either the licensee, if he or she is the individual owner of such licensed business; or a stockholder, ~~or officer,~~ partner, or member ~~or copartner~~ of such licensee; to act as a motor vehicle auction dealer's salesperson and the name of the authorized person shall appear on the license.

Sec. 390. That section 60-1407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-1407. Any person, desiring to apply for one or more of the types of licenses described in this act, shall submit to the board, in writing, the following required information: (1) The name and address of the applicant and the name under which he or she intends to conduct business. ~~If ;-PROVIDED, that if~~ the applicant is a copartnership partnership or limited liability company, it shall set forth the name and address of each partner or member thereof and the name under which the copartnership business is to be conducted. ~~If ;-AND PROVIDED FURTHER, that if~~ the applicant is a corporation, it shall set forth the name of the corporation and the name and address of each of its principal

officers; (2) the place or places, including the city or village and the street and street number, if any, where the business is to be conducted or the ~~salesman~~ salesperson employed; (3) if the application is for a motor vehicle dealer's license, trailer dealer's license, or motorcycle dealer's license the name or names of the new motor vehicle or vehicles, new trailer or trailers, new motorcycle or motorcycles which the applicant has been enfranchised to sell or exchange and the name or names and address or addresses of the manufacturer or distributor who has enfranchised the applicant and a current copy of each existing franchise; (4) if the application is for any of the above-named classes of dealer's licenses, the name and address of the person who is to act as a motor vehicle, trailer, or motorcycle ~~salesman~~ salesperson under such license if issued; and (5) a description of the proposed place or places of business proposed to be operated in the event a license is granted together with (a) a statement whether the applicant owns or leases the proposed established place of business; as defined in section 60-1401.02 and, if the proposed established place of business is leased, the applicant shall file a true and correct copy of the lease agreement, and (b) a description of the facilities for the display of motor vehicles, trailers, and motorcycles.

Sec. 391. That section 60-1411.02, Revised Statutes Supplement, 1992, be amended to read as follows:

60-1411.02. The board may, upon its own motion, and shall, upon a sworn complaint in writing of any person, investigate the actions of any person licensed as a motor vehicle dealer, trailer dealer, motor vehicle or trailer salesperson, manufacturer, factory branch, distributor, factory representative, distributor representative, supplemental motor vehicle dealer, wrecker or salvage dealer, finance company, motorcycle dealer, or motor vehicle auction dealer. It shall have the power to deny any application for a license or to revoke or suspend any license issued under Chapter 60, article 14, when the applicant or licensee including any officer, stockholder, partner, or member or any person having any financial interest in the applicant or licensee:

- (1) Has had any license, issued to him or her under Chapter 60, article 14, revoked or suspended and, if the license has been suspended, has not complied with the terms of suspension;
- (2) Has knowingly purchased, sold, or done business in stolen motor vehicles, motorcycles, or trailers or parts therefor;
- (3) Has failed to provide and maintain an established place of business as defined in section 60-1401.02;
- (4) Has been found guilty of any felony which has not been pardoned, has been found guilty of any misdemeanor concerning fraud or conversion, or has suffered any judgment in any civil action involving fraud, misrepresentation, or conversion. In the event felony charges are pending against an applicant, the board may refuse to issue a license to the applicant until there has been a final determination of the charges;
- (5) Has made a false material statement in his or her application or any data attached thereto;
- (6) Has willfully failed to perform any written agreement

with any consumer or retail buyer;

(7) Has made a fraudulent sale, transaction, or repossession, or created a fraudulent security interest, as defined in the Uniform Commercial Code, in a motor vehicle, trailer, or motorcycle;

(8) Has failed to notify the board of a change in the location of his or her established place or places of business and in the case of a salesperson has failed to notify the board of any change in his or her employment;

(9) Has willfully failed to deliver to a purchaser a proper certificate of ownership for a motor vehicle, trailer, or motorcycle sold by the licensee or to refund the full purchase price if the purchaser cannot legally obtain proper certification of ownership within thirty days;

(10) Has forged the signature of the registered or legal owner on a certificate of title;

(11) Has failed to comply with Chapter 60, article 14, and any orders, rules, or regulations of the board adopted and promulgated under Chapter 60, article 14;

(12) Has failed to comply with the advertising and selling standards established in section 60-1411.03;

(13) Has failed to comply with the provisions of section 60-320, Chapter 60, article 1 or 14, or the rules or regulations adopted and promulgated by the board pursuant to Chapter 60, article 14;

(14) Has failed to comply with any provision of Chapter 71, article 46, or with any code, standard, or rule or regulation adopted or made under the authority of or pursuant to the provisions of Chapter 71, article 46;

(15) Has willfully defrauded any retail buyer, or other person, in the conduct of the licensee's business;

(16) Has employed any unlicensed salesperson or salespersons;

(17) Has failed to comply with the provisions of Chapter 60, article 23;

(18) Has engaged in any unfair methods of competition or unfair or deceptive acts or practices prohibited under Chapter 87, article 3; or

(19) Has conspired, as defined in section 28-202, with other persons to process titles in violation of the provisions of Chapter 60, article 1.

Sec. 392. That section 60-2001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

60-2001. As used in sections 60-2001 to 60-2023, unless the context otherwise requires:

(1) Person shall mean any individual, partnership, limited liability company, corporation, the state and its agencies and subdivisions, and any body of persons, whether incorporated or not;

(2) Snowmobile shall mean a self-propelled motor vehicle designed to travel on snow or ice or a natural terrain steered by wheels, skis, or runners and propelled by a belt-driven track with or without steel

cleats;

(3) Owner shall mean a person, other than a lienholder, having the property in or title to a snowmobile or entitled to the use or possession thereof;

(4) Operate shall mean to ride in or on and control the operation of a snowmobile;

(5) Operator shall mean every person who operates or is in actual physical control of a snowmobile;

(6) Register shall mean the act of assigning a registration number to a snowmobile;

(7) Director shall mean the Director of Motor Vehicles acting directly or through his or her authorized agent;

(8) Roadway shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel;

(9) Dealer shall mean any person engaged in the business of selling snowmobiles at wholesale or retail;

(10) Manufacturer shall mean a person, partnership, limited liability company, or corporation engaged in the business of manufacturing snowmobiles; and

(11) Local authorities shall mean every municipal and other local board or body having authority to enact laws or regulations relating to traffic under the Constitution of Nebraska and laws of this state.

Sec. 393. That section 64-205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

64-205. The words acknowledged before me means;

(1) That the person acknowledging appeared before the person taking the acknowledgment; ;

(2) That he or she acknowledged he or she executed the instrument; ;

(3) That, in the case of:

(i) A natural person, he or she executed the instrument for the purposes therein stated;

(ii) A corporation, the officer or agent acknowledged he or she held the position or title set forth in the instrument and certificate, he or she signed the instrument on behalf of the corporation by proper authority; and the instrument was the act of the corporation for the purpose therein stated;

(iii) A partnership, the partner or agent acknowledged he or she signed the instrument on behalf of the partnership by proper authority and he or she executed the instrument as the act of the partnership for the purposes therein stated;

(iv) A limited liability company, the member or agent acknowledged he or she signed the instrument on behalf of the limited liability company by proper authority and he or she executed the instrument as the act of the limited liability company for the purposes therein stated;

(v) A person acknowledging as principal by an attorney in

fact, he or she executed the instrument by proper authority as the act of the principal for the purposes therein stated;

(*) (vi) A person acknowledging as a public officer, trustee, administrator, guardian, or other representative, he or she signed the instrument by proper authority and he or she executed the instrument in the capacity and for the purposes therein stated; and

(4) That the person taking the acknowledgment either knew or had satisfactory evidence that the person acknowledging was the person named in the instrument or certificate.

Sec. 394. That section 64-206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

64-206. The forms of acknowledgment set forth in this section may be used and are sufficient for their respective purposes under any law of this state. The forms shall be known as Statutory Short Forms of Acknowledgment and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

- (1) For an individual acting in his or her own right:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of person acknowledged).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

- (2) For a corporation:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging) a (state or place of incorporation) corporation, on behalf of the corporation.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

- (3) For a partnership:

State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of acknowledging partner or agent), partner (or agent) on behalf of (name of partnership), a partnership.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

- (4) For a limited liability company:

State of

County of

The foregoing instrument was acknowledged before me this

(date) by (name of acknowledging member or agent), member (or agent) on behalf of (name of limited liability company), a limited liability company.

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

- (5) For an individual acting as principal by an attorney in fact:
State of

County of

The foregoing instrument was acknowledged before me this (date) by (name of attorney in fact) as attorney in fact on behalf of (name of principal).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

- (5) (6) By any Public Officer, trustee, or personal representative:
State of

County of

The foregoing instrument was acknowledged before me this (date) by (name and title of position).

(Signature of Person Taking Acknowledgment)

(Title or Rank)

(Serial Number, if any)

Supplement, 1992, be amended to read as follows:
Sec. 395. That section 66-482, Revised Statutes

66-482. For purposes of sections 66-482 to 66-4,149:

(1) Motor vehicle shall have the same definition as in section 60-301;

(2) Motor vehicle fuel shall include all products and fuel commonly or commercially known as gasoline, including casing head or natural gasoline, benzol, naphtha, and benzine with an initial boiling point under two hundred degrees Fahrenheit and shall include any other liquid and such other volatile and inflammable liquids as may be produced, compounded, or used for the purpose of or as may be used for operating or propelling motor vehicles, motor boats, or aircraft or as an ingredient in the manufacture of such fuel. Agricultural ethyl alcohol produced for use as a motor vehicle fuel shall be considered a motor vehicle fuel. Motor vehicle fuel shall not include the products commonly known as kerosene oil, kerosene distillate, crude petroleum, naphtha, and benzine with a boiling point over two hundred degrees Fahrenheit, residuum gas oil, smudge oil, and any petroleum product with an initial boiling point under two hundred degrees Fahrenheit, a ninety-five percent distillation (recovery) temperature in excess of four hundred sixty-four degrees Fahrenheit, an American Society of Testing Materials research method octane number less than seventy, and an end or dry point of distillation of five hundred seventy degrees Fahrenheit maximum;

(3) Agricultural ethyl alcohol shall mean ethyl alcohol produced from cereal grains or agricultural commodities grown within the continental United States, and for the purpose of such sections, the purity of the ethyl alcohol shall be determined excluding denaturant and the volume of alcohol blended with gasoline for motor vehicle fuel shall include the volume of any denaturant required pursuant to law;

(4) Alcohol blend shall mean a blend of agricultural ethyl alcohol in gasoline or other motor vehicle fuel, such blend to contain not less than five percent by volume of alcohol;

(5) Importer shall include (a) any person who imports or causes to be imported into the State of Nebraska motor vehicle fuel, (b) any person who produces, refines, manufactures, or compounds motor vehicle fuel, and (c) any person who purchases for sale motor vehicle fuel from an importer described in subdivision (5)(a) or (b) of this section, if any part of such motor vehicle fuel is for use, distribution, sale, or delivery in the State of Nebraska. The person who imports or causes to be imported motor vehicle fuel shall be the seller or buyer who is transporting the fuel or is directly responsible to the person transporting the fuel for the costs of transportation;

(6) Gross gallons shall mean measured gallons without adjustment or correction for temperature or barometric pressure;

(7) Special fuel shall mean any fuel defined as special fuel in section 66-602;

(8) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision; and

(9) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue.

Sec. 396. That section 66-4,130, Revised Statutes Supplement, 1992, be amended to read as follows:

66-4,130. The department may provide by rule and regulation that some or all of the documents required to support the claim for tax credits under sections 66-4,118 to 66-4,132 need not be filed with the claim but shall remain as part of the business records of the person claiming the credit. The department shall provide by rule and regulation for the filing of credit applications or claims by partners, members of limited liability companies, or shareholders of small business corporations so that such partners, members, or shareholders may receive the credit intended by such sections.

Sec. 397. That section 66-602, Revised Statutes Supplement, 1992, be amended to read as follows:

66-602. For purposes of the Special Fuel Tax Act, unless the context otherwise requires:

(1) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine, imprisonment, or both are prescribed or imposed in the act, the word person as applied to a partnership, a limited liability company, or an

association shall mean the partners or members thereof;

(2) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue;

(3) Highway shall mean every way or place generally open to the use of the public for the purpose of vehicular travel, even though such way or place may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(4) Special fuel shall mean all combustible gases and liquids suitable for the generation of power for propulsion of motor vehicles, except that it does not include motor vehicle fuel;

(5) Special fuel importer shall include (a) any person who imports or causes to be imported into the State of Nebraska special fuel, (b) any person who produces, refines, manufactures, or compounds special fuel, or (c) any person who purchases for sale special fuel from an importer described in subdivision (5)(a) or (b) of this section, if any part of such special fuel is for use, distribution, sale, or delivery in the State of Nebraska. The person who imports or causes to be imported special fuel shall be the seller or buyer who is transporting the fuel or is directly responsible to the person transporting the fuel for the costs of transportation;

(6) Special fuel user shall mean any person who is not a special fuel importer, who has special fuel storage facilities designed or equipped to fuel motor vehicles, and who owns or has licensed one or more vehicles that (a) are propelled by the type of special fuel stored, (b) are not subject to either section 66-491 or licensing under section 66-1406, and (c) are farm trucks or passenger cars as defined in section 60-301;

(7) Motor vehicle shall have the same definition as in section 60-301; and

(8) Gross gallons shall mean measured gallons without correction or adjustment for temperature or barometric pressure. For nonliquid special fuel, the department shall determine the gallon equivalent of such fuel in its normal unit of sale based on its B.T.U. content.

Sec. 398. That section 66-712, Revised Statutes Supplement, 1992, be amended to read as follows:

66-712. For purposes of Chapter 66, articles 4, 5, and 6, and sections 66-712 to 66-737:

(1) Department shall mean the Motor Fuel Tax Enforcement and Collection Division of the Department of Revenue;

(2) Motor fuel shall mean any fuel defined as motor vehicle fuel in section 66-482 and any fuel defined as special fuel in section 66-602;

(3) Motor fuel laws shall mean the provisions of Chapter 66, articles 4, 5, and 6 and sections 66-712 to 66-737; and

(4) Person shall mean any individual, firm, partnership, limited liability company, company, agency, association, corporation, state, county, municipality, or other political subdivision. Whenever a fine, imprisonment, or both are prescribed or imposed in sections 66-712 to 66-737, the word person as applied to a partnership, a limited liability

company, or an association shall mean the partners or members thereof.

Sec. 399. That section 66-729, Revised Statutes Supplement, 1992, be amended to read as follows:

66-729. After reviewing an application received in proper form, the department may issue to the applicant a permit or license. The department may refuse to issue a permit or license to any person:

(1) Who previously had a permit or license issued under the motor fuel laws of any state which, prior to the time of filing the application, has been suspended or canceled for cause;

(2) Who is a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been suspended or canceled for cause;

(3) Which has as a partner, member, or shareholder, with a ten percent or larger ownership interest, any person who is unable to obtain a license or permit in his or her own name;

(4) Who is not in compliance with requirements of the State Fire Marshal regarding underground storage tanks;

(5) Who is not in compliance with the Department of Agriculture regarding weights and measures or the sealing of dispensing devices;

(6) Who has been convicted of a felony in the last ten years; or

(7) Upon other sufficient cause being shown.

Before such refusal, the department shall grant the applicant a hearing and shall grant him or her at least ten days' written notice of the time and place.

Sec. 400. That section 67-233, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-233. For purposes of the Nebraska Uniform Limited Partnership Act:

(1) Certificate of limited partnership shall mean the certificate referred to in section 67-240 and the certificate as amended or restated;

(2) Contribution shall mean any cash, property, services rendered, or promissory note or other binding obligation to contribute cash or property or to perform services which a partner contributes to a limited partnership in his or her capacity as a partner;

(3) Event of withdrawal of a general partner shall mean an event that causes a person to cease to be a general partner as provided in section 67-255;

(4) Foreign limited partnership shall mean a partnership formed under the laws of any state other than this state or under the laws of any foreign country and having as partners one or more general partners and one or more limited partners;

(5) General partner shall mean a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and, if required, named as such in the certificate of limited partnership or similar instrument under which the

limited partnership or foreign limited partnership is organized;

(6) Limited partner shall mean a person who has been admitted to a limited partnership as a limited partner as provided in the Nebraska Uniform Limited Partnership Act or, in the case of a foreign limited partnership, in accordance with the laws under which the limited partnership is formed;

(7) Limited partnership and domestic limited partnership shall mean a partnership formed by two or more persons under the laws of this state and having one or more general partners and one or more limited partners;

(8) Liquidating trustee shall mean a person, other than a general partner, but including a limited partner, carrying out the winding up of a limited partnership;

(9) Partner shall mean a limited or general partner;

(10) Partnership agreement shall mean any valid agreement, written or oral, of the partners as to the affairs of a limited partnership or foreign limited partnership and the conduct of its business;

(11) Partnership interest shall mean a partner's share of the profits and losses of a limited partnership or foreign limited partnership and the right to receive distributions of partnership assets;

(12) Person shall mean a natural person, partnership, whether general or limited and whether domestic or foreign, limited liability company, trust, estate, association, or corporation; and

(13) State shall mean a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Sec. 401. That section 67-234, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-234. The name of each limited partnership as set forth in its certificate of limited partnership:

(1) Shall contain the words limited partnership or limited or the abbreviations L.P. or Ltd.;

(2) May not contain the name of a limited partner unless (i) it is also the name of a general partner, ~~or~~ the corporate name of a corporate general partner, or the company name of a limited liability company general partner, (ii) the business of the limited partnership had been carried on under that name before the admission of that limited partner, or (iii) the use of the name of a limited partner in the name of the limited partnership is merely coincidental and not intended to mislead the public to believe that such limited partner is a general partner;

(3) Shall be distinguishable upon the records in the office of the Secretary of State from the name of any corporation, limited liability company, or limited partnership reserved, registered, or organized under the laws of this state or qualified to do business or registered as a foreign corporation, foreign limited liability company, or foreign limited partnership in this state, except that a limited partnership may register under any name which is not distinguishable upon the records in the office of the Secretary of State from the name of any domestic or foreign

corporation, limited liability company, or limited partnership reserved, registered, or organized under the laws of this state with the consent of the other corporation, limited liability company, or limited partnership or with the transfer of such name by the other corporation, limited liability company, or limited partnership, which written consent or transfer shall be filed with the Secretary of State; and

(4) May contain the following words or abbreviations of like import: Company; association; club; foundation; fund; institute; society; union; syndicate; or trust.

Sec. 402. That section 67-236, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-236. (a) Each limited partnership shall have and maintain in this state:

(1) An office which may but need not be a place of its business in this state; and

(2) An agent for service of process on the limited partnership, which agent must be an individual resident of this state, a domestic corporation, ~~or~~ a foreign corporation authorized to do business in this state, a domestic limited liability company, or a foreign limited liability company authorized to do business in this state.

(b) The agent for service of process may change his, her, or its address to another address in this state by paying a fee as set forth in section 67-293 and filing with the Secretary of State a certificate, executed by the agent, setting forth the names of the limited partnerships represented by the agent, the address at which the agent has maintained his, her, or its office as agent for each of such limited partnerships, and the new address to which the office will be changed on a given day, at which new address the agent will thereafter maintain his, her, or its office as agent for each of the limited partnerships recited in the certificate. Upon the filing of the certificate, the Secretary of State shall furnish to the agent a copy of the same, and thereafter or until further change of address, as authorized by law, the office in this state of the agent for service of process for each of the limited partnerships recited in the certificate shall be located at the new address. Filing of the certificate shall be deemed to be an amendment of the certificate of limited partnership of each limited partnership affected thereby, and each such limited partnership shall not be required to take any further action to amend its certificate of limited partnership. Any agent filing a certificate under this section shall promptly, upon the filing, deliver a copy of such certificate to each limited partnership affected thereby.

(c) The agent of one or more limited partnerships may resign and appoint a successor agent by paying a fee as set forth in section 67-293 and filing a certificate with the Secretary of State, stating that the agent is resigning and the name and address of the successor agent. There shall be attached to such certificate a statement executed by each affected limited partnership ratifying and approving such change of agent. Upon such filing, the successor agent shall become the agent of such limited partnerships as have ratified and approved such substitution and the

successor agent's address, as stated in such certificate, shall become the address of each such limited partnership's office in this state. The Secretary of State shall furnish to the successor agent a copy of the certificate of resignation. Filing of the certificate of resignation shall be deemed to be an amendment of the certificate of limited partnership of each limited partnership affected thereby, and each such limited partnership shall not be required to take any further action to amend its certificate of limited partnership.

(d) The agent of one or more limited partnerships may resign without appointing a successor agent by paying a fee as set forth in section 67-293 and filing a certificate with the Secretary of State stating that the agent is resigning as agent for the limited partnerships identified in the certificate, but such resignation shall not become effective until one hundred twenty days after the certificate is filed. There shall be attached to the certificate an affidavit of the agent, if an individual, or of the president, a vice president, or the secretary, if a corporation, or of the manager or a member, if a limited liability company, that, at least thirty days prior to the date of filing of the certificate, notice of the resignation of the agent was sent by certified or registered mail to each limited partnership for which the agent is resigning as agent at the principal office thereof within or outside this state if known to such agent or, if not, to the last-known address of the attorney or other individual at whose request the agent was appointed for such limited partnership. After receipt of the notice of the resignation of its agent, the limited partnership for which the agent was acting shall obtain and designate a new agent to take the place of the agent so resigning. If the limited partnership fails to obtain and designate a new agent prior to the expiration of the period of one hundred twenty days after the filing of the certificate of resignation, the certificate of such limited partnership shall be deemed to be canceled.

Sec. 403. That section 67-251, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-251. (a) Except as provided in subsection (d) of this section, a limited partner is not liable for the obligations of a limited partnership unless he or she is also a general partner or, in addition to the exercise of his or her rights and powers as a limited partner, he or she participates in the control of the business. However, if the limited partner participates in the control of the business, he or she is liable only to persons who transact business with the limited partnership with actual knowledge of his or her participation in control reasonably believing, based upon the limited partner's conduct, that the limited partner is a general partner. An assignee of a partnership interest who is not admitted as an additional limited partner shall not be liable for the obligations of a limited partnership.

(b) A limited partner does not participate in the control of the business within the meaning of subsection (a) of this section solely by virtue of possessing or exercising one or more of the following powers:

(1) The power to be an independent contractor for or to transact business with the limited partnership, including the power to be a

contractor for or an agent or employee of the limited partnership or of a general partner, or to be an officer, director, member, or equity security holder of a general partner which is a corporation or limited liability company, or to be an officer, partner, or equity security holder of a general partner which is a partnership, or to be a fiduciary or beneficiary of an estate or trust which is a general partner, or any combination of these roles, whether solely or jointly with others and irrespective of whether that general partner is the sole general partner of the limited partnership or is a general partner of one or more limited partnerships;

(2) The power to consult with and advise a general partner with respect to any matter concerning the business of the limited partnership;

(3) The power to act as surety, guarantor, or endorser for the limited partnership or a general partner, to guaranty or assume one or more specific obligations of the limited partnership or a general partner, to borrow money from the limited partnership or a general partner, to lend money to the limited partnership or a general partner, or to provide collateral for the limited partnership;

(4) The power to propose, approve, or disapprove by voting, by number, financial interest, class, or group or as otherwise provided in the partnership agreement, or otherwise vote on one or more of the following matters:

(i) The dissolution and winding up of the limited partnership or an election to continue the limited partnership or an election to continue the business of the limited partnership;

(ii) The sale, exchange, lease, mortgage, assignment, pledge, or other transfer of or granting a security interest in any asset or assets of the limited partnership;

(iii) The incurrence, renewal, refinancing, or payment or other discharge of indebtedness by the limited partnership;

(iv) A change in the nature of the business;

(v) The removal, admission, or retention of a general partner;

(vi) The removal, admission, or retention of a limited partner;

(vii) A transaction or other matter involving an actual or potential conflict of interest;

(viii) An amendment to the partnership agreement or certificate of limited partnership;

(ix) The merger or consolidation of a limited partnership;

(x) In respect of a limited partnership which is registered as an investment company under the federal Investment Company Act of 1940, as amended, any matter required by the federal Investment Company Act of 1940, as amended, or the rules and regulations of the Securities and Exchange Commission thereunder, to be approved by the holders of beneficial interests in an investment company, including the electing of directors or trustees of the investment company, the approving or terminating of investment advisory or underwriting contracts, and the

approving of auditors;

(xi) The indemnification of any partner or other person; or

(xii) Such other matters as are stated in the partnership agreement or in any other agreement or writing as being subject to the approval or disapproval of limited partners;

(5) The power to call, request, attend, or participate at a meeting of the partners or the limited partners;

(6) The power to wind up a limited partnership pursuant to section 67-278;

(7) The power to take any action required or permitted by law to bring, pursue, settle, or otherwise terminate a derivative action in the right of the limited partnership;

(8) The power to serve on a committee of the limited partnership or the limited partners; or

(9) The power to exercise any right or power granted or permitted to limited partners under the Nebraska Uniform Limited Partnership Act and not specifically enumerated in this subsection.

(c) The enumeration in subsection (b) of this section does not mean that the possession or exercise of any other powers by a limited partner constitutes participation by him or her in the control of the business of the limited partnership.

(d) A limited partner who knowingly permits his or her name to be used in the name of the limited partnership, except under circumstances permitted by subdivision (2) of section 67-234, is liable to creditors who extend credit to the limited partnership without actual knowledge that the limited partner is not a general partner.

(e) This section shall not create any rights or powers of limited partners. Such rights and powers may be created only by a certificate of limited partnership, a partnership agreement, or any other agreement or writing or by the Nebraska Uniform Limited Partnership Act.

Sec. 404. That section 67-255, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-255. Except as approved by the written consent of all partners at the time, a person ceases to be a general partner of a limited partnership upon the happening of any of the following events:

(1) The general partner withdraws from the limited partnership as provided in section 67-264;

(2) The general partner ceases to be a general partner of the limited partnership as provided in section 67-272;

(3) The general partner is removed as a general partner in accordance with the partnership agreement;

(4) Unless otherwise provided in the partnership agreement, the general partner: (i) Makes an assignment for the benefit of creditors; (ii) files a voluntary petition in bankruptcy; (iii) is adjudicated a bankrupt or insolvent or has an order for relief in any bankruptcy or insolvency proceeding entered against the general partner; (iv) files a petition or answer seeking for the general partner any reorganization, arrangement,

composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, rule, or regulation; (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the general partner in any proceeding of this nature; or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of the general partner's properties;

(5) Unless otherwise provided in the partnership agreement, one hundred twenty days after the commencement of any proceeding against the general partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any statute, law, rule, or regulation, the proceeding has not been dismissed, or if within ninety days after the appointment without the general partner's consent or acquiescence of a trustee, receiver, or liquidator of the general partner or of all or any substantial part of the general partner's properties, the appointment is not vacated or stayed or, within ninety days after the expiration of any such stay, the appointment is not vacated;

(6) In the case of a general partner who is a natural person:

(i) His or her death; or

(ii) The entry of an order by a court of competent jurisdiction adjudicating him or her incompetent to manage his or her person or his or her estate;

(7) In the case of a general partner who is acting as a general partner by virtue of being a trustee of a trust, the termination of the trust, but not merely the substitution of a new trustee;

(8) In the case of a general partner that is a separate partnership, the dissolution and commencement of winding up of the separate partnership;

(9) In the case of a general partner that is a corporation, the filing of a certificate of dissolution, or its equivalent, for the corporation or the revocation of its charter and the expiration of ninety days after the date of notice to the corporation of revocation without a reinstatement of its charter; ✪

(10) In the case of a general partner that is a limited liability company, the filing of the articles of dissolution, or its equivalent, for the limited liability company or the forfeiture of its certificate and the expiration of one year after notice of forfeiture without revival and reinstatement; or

(11) In the case of a general partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the partnership.

Sec. 405. That section 67-275, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-275. If a partner who is an individual dies or a court of competent jurisdiction adjudges him or her to be incompetent to manage his or her person or his or her property, the partner's executor, administrator, guardian, conservator, personal representative, or other

legal representative may exercise all the partner's rights for the purpose of settling his or her estate or administering his or her property, including any power the partner had to give an assignee the right to become a limited partner. If a partner is a corporation, limited liability company, trust, or other entity and is dissolved or terminated, the powers of that partner may be exercised by its legal representative or successor.

Sec. 406. That section 67-281, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-281. (a) Before transacting business in this state, a foreign limited partnership shall register with the Secretary of State. In order to register, a foreign limited partnership shall submit to the Secretary of State, in duplicate, an application for registration as a foreign limited partnership, signed and sworn to by a general partner and setting forth:

(1) The name of the foreign limited partnership and, if different, the name under which it proposes to register and transact business in this state;

(2) The state or country and date of its formation;

(3) A statement that the Secretary of State is appointed the agent of the foreign limited partnership for service of process if no agent has been appointed under subdivision (4) of this subsection, if an agent has been appointed but the agent's authority has been revoked, or if an agent has been appointed but cannot be found or served with the exercise of reasonable diligence;

(4) The name and address of any agent for service of process on the foreign limited partnership whom the foreign limited partnership elects to appoint. The agent must be an individual resident of this state, a domestic corporation, ~~or~~ a foreign corporation having a place of business in and authorized to do business in this state, a domestic limited liability company, or a foreign limited liability company having a place of business in and authorized to do business in this state;

(5) The address of the office required to be maintained in the state or country of its organization by the laws of that state or country or, if not so required, of the principal office of the foreign limited partnership; and

(6) The name and business, residence, or mailing address of each of the general partners.

(b) A foreign limited partnership or a partnership, limited liability company, or corporation formed or organized under the laws of any foreign country or other foreign jurisdiction or the laws of any state other than this state shall not be deemed to be doing business in this state solely by reason of its being a partner in a domestic limited partnership.

Sec. 407. That section 67-283, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-283. (a) A foreign limited partnership may register with the Secretary of State under any name, whether or not it is the name under which it is registered in its state or country of organization, that includes the words limited partnership or limited or the abbreviations L.P. or Ltd. and that could be registered by a domestic limited partnership. A

foreign limited partnership may register under any name which is not distinguishable upon the records in the office of the Secretary of State from the name of any domestic or foreign corporation, limited liability company, or limited partnership reserved, registered, or organized under the laws of this state with the consent of the other corporation, limited liability company, or limited partnership or with the transfer of such name by the other corporation, limited liability company, or limited partnership, which written consent or transfer shall be filed with the Secretary of State.

(b) Each foreign limited partnership shall have and maintain in this state an agent for service of process on the limited partnership, which agent may be either an individual resident of this state, a domestic corporation, ~~or~~ a foreign corporation authorized to do business in this state, a domestic limited liability company, or a foreign limited liability company authorized to do business in this state. The appointment of the Secretary of State as agent for service of process pursuant to subdivision (a)(3) of section 67-281 shall not relieve a foreign limited partnership from its obligations pursuant to this section or from the consequences of failure to discharge its obligations under this section.

(c) An agent may change his, her, or its address for service of process to another address in this state by paying a fee as set forth in section 67-293 and filing with the Secretary of State a certificate, executed by the agent, setting forth the names of the foreign limited partnerships represented by the agent, the address at which such agent has maintained his, her, or its office as agent for each of such foreign limited partnerships, and the new address to which his, her, or its office will be changed on a given day, at which new address the agent will thereafter maintain his, her, or its office as agent for each of the foreign limited partnerships recited in the certificate. Upon the filing of the certificate, the Secretary of State shall furnish to the agent a copy of the same, and thereafter or until further change of address, as authorized by law, the office of the agent in this state for each of the foreign limited partnerships recited in the certificate shall be located at the new address. Filing of the certificate shall be deemed to be an amendment of the registration of each foreign limited partnership affected thereby, and each such foreign limited partnership shall not be required to take any further action to amend its registration. Any agent filing a certificate under this section shall promptly, upon filing, deliver a copy of such certificate to each foreign limited partnership affected thereby.

(d) The agent of one or more foreign limited partnerships may resign and appoint a successor agent by paying a fee as set forth in section 67-293 and filing a certificate with the Secretary of State, stating that the agent is resigning and the name and address of the successor agent. There shall be attached to such certificate a statement executed by each affected foreign limited partnership ratifying and approving such change of agent. Upon such filing, the successor agent shall become the agent of such foreign limited partnerships as have ratified and approved such substitution. The Secretary of State shall furnish to the successor agent a copy of the certificate of resignation. Filing of the certificate of

resignation shall be deemed to be an amendment of the registration of each foreign limited partnership affected thereby, and each such foreign limited partnership shall not be required to take any further action to amend its registration.

(e) The agent of one or more foreign limited partnerships may resign without appointing a successor agent by paying a fee as set forth in section 67-293 and filing a certificate with the Secretary of State stating that the agent is resigning as agent for the foreign limited partnerships identified in the certificate, but such resignation shall not become effective until one hundred twenty days after the certificate is filed. There shall be attached to such certificate an affidavit of such agent, if an individual, or of the president, a vice president, or the secretary, if a corporation, or of the manager or a member, if a limited liability company, that, at least thirty days prior to the date of filing of the certificate, notice of the resignation of such agent was sent, by certified or registered mail, to each foreign limited partnership for which such agent is resigning as agent, at the principal office thereof within or outside this state if known to such agent or, if not, to the last-known address of the attorney or other individual at whose request such agent was appointed for such foreign limited partnership. After receipt of the notice of the resignation of its agent, the foreign limited partnership for which such agent was acting shall obtain and designate a new agent to take the place of the agent so resigning. If such foreign limited partnership fails to obtain and designate a new agent prior to the expiration of the period of one hundred twenty days after the filing of the certificate of resignation, such foreign limited partnership shall not be permitted to do business in this state and its registration shall be deemed to be canceled.

Sec. 408. That section 67-302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

67-302. In ~~sections 67-301 to 67-343~~ the Uniform Partnership Act:

Court includes every court and judge having jurisdiction in the case.

Business includes every trade, occupation, or profession.

Person includes individuals, partnerships, limited liability companies, corporations, and other associations.

Bankrupt includes bankrupt under the Federal Bankruptcy Act; or insolvent under any state insolvent act.

Conveyance includes every assignment, lease, mortgage, or encumbrance.

Real property includes land and any interest or estate in land.

Words denoting the masculine gender in ~~sections 67-301 to 67-343~~ the act also include similar words of the feminine gender.

Sec. 409. That section 69-1005, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1005. Any person, firm, ~~copartnership~~ partnership, limited liability company, or corporation who ~~shall violate~~ violates any

of the provisions of sections 69-1001 to 69-1005 shall be deemed guilty of a Class V misdemeanor.

Sec. 410. That section 69-1201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1201. As used in sections 69-1201 to 69-1217, unless the context otherwise requires:

(1) Debt management shall mean the planning and management of the financial affairs of a debtor for a fee from the debtor and the receiving therefrom of money or evidences thereof for the purpose of distributing the same to his or her creditors in payment or partial payment of his or her obligations;

(2) Licensee shall mean any individual, partnership, limited liability company, unincorporated association, or corporation licensed under such sections; ~~69-1201 to 69-1217~~;

(3) Secretary shall mean the Secretary of State;

(4) Debtor shall mean a wage earner whose principal income is derived from wages, salary, or commission;

(5) Office shall mean each location by street number, building number, city, and state where any person engages in debt management; and

(6) Creditor shall mean a person for whose benefit money is being collected and disbursed by licensees.

Sec. 411. That section 69-1204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1204. Any person desiring to obtain a license to engage in the debt management business in this state shall file with the secretary an application in writing, under oath, setting forth his or her business name, the exact location of his or her office, names and addresses of all officers and directors if an association or a corporation, ~~and~~ if a partnership, the partnership name and the names and addresses of all partners, and if a limited liability company, the company name and the names and addresses of all members, and a copy of the certificate of registration of trade name, ~~or~~ certificate of partnership, articles of organization, or articles of incorporation. At the time of filing the application the applicant shall pay to the secretary a license fee of two hundred dollars for the main office within each county and one hundred dollars for each additional office. An initial investigation fee of two hundred dollars shall also be paid to the secretary at the time of filing the application. At the time of filing the application the applicant shall furnish a bond to the people of the state in the sum of ten thousand dollars, conditioned upon the faithful accounting of all money collected upon accounts entrusted to such person engaged in debt management, and their employees and agents. The aggregate liability of the surety to all claimants doing business with the office for which the bond is filed shall in no event exceed the amount of such bond. The bond or bonds shall be approved by the secretary and filed in the office of the Secretary of State. No person, firm, limited liability company, or corporation shall engage in the business of debt management until a good and sufficient bond is filed

in accordance with the provisions of sections 69-1201 to 69-1217.

Each licensee shall furnish with his or her application a blank copy of the contract he or she intends to use between himself or herself and the debtor and shall notify the secretary of all changes and amendments thereto within thirty days of such changes and amendments.

The license issued under sections 69-1201 to 69-1217 shall expire on December 31 next following its issuance unless sooner surrendered, revoked, or suspended, but may be renewed as provided in ~~sections 69-1201 to 69-1217~~ such sections.

Sec. 412. That section 69-1205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1205. Upon the filing of the application and the payment of the fees and the approval of the bond, the secretary shall investigate the facts; and if he or she finds that the financial responsibility, experience, character, and general fitness of the applicant and of the members thereof, if the applicant is a partnership, a limited liability company, or an association, and of the officers and directors thereof, if the applicant is a corporation, are such as to command the confidence of the community to warrant belief that the business will be operated fairly and honestly within the purposes of sections 69-1201 to 69-1217 and that the applicant or the applicant and the members thereof or the applicant and the officers and directors thereof have not been convicted of a felony, or that such person has not had a record of having defaulted in the payment of money collected for others, including the discharge of such debts through bankruptcy proceedings, the secretary shall issue the applicant a license to engage in the debt management business in accordance with ~~the provisions of~~ sections 69-1201 to 69-1217. The secretary may require as part of the application a credit report and other information.

Sec. 413. That section 69-1215, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

69-1215. Any person, partnership, limited liability company, association, corporation, or ~~any~~ other group of individuals, however organized, or any owner, partner, member, officer, director, employee, agent, or representative thereof who willfully or knowingly engages in the business of debt management without the license required by sections 69-1201 to 69-1217; shall be guilty of a Class II misdemeanor.

Sec. 414. That section 69-1301, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 26, Ninety-second Legislature, Third Special Session, 1992, be amended to read as follows:

69-1301. As used in the Uniform Disposition of Unclaimed Property Act unless the context otherwise requires:

(a) Banking organization means any bank, trust company, savings bank (industrial bank, land bank, safe deposit company), or a private banker engaged in business in this state.

(b) Business association means any corporation (other than

a public corporation), joint-stock company, business trust, partnership, limited liability company, or ~~any~~ association for business purposes of two or more individuals.

(c) Financial organization means any savings and loan association, building and loan association, industrial loan and investment company, credit union, (cooperative bank) or investment company, engaged in business in this state.

(d) Holder means any person in possession of property subject to the act belonging to another, or who is trustee in case of a trust, or is indebted to another on an obligation subject to the act.

(e) Life insurance corporation means any association or corporation transacting within this state the business of insurance on the lives of persons or insurance appertaining thereto, including, but not by way of limitation, endowments and annuities.

(f) Owner means a depositor in case of a deposit, a beneficiary in case of a trust, a creditor, claimant, or payee in case of other choses in action, or any person having a legal or equitable interest in property subject to the act, or his or her legal representative.

(g) Person means any individual, business association, governmental or political subdivision, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or any other legal or commercial entity.

(h) Utility means any person who owns or operates within this state, for public use, any plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas.

Sec. 415. That section 69-1310, Reissue Revised Statutes of Nebraska, 1943, as amended by section 13, Legislative Bill 26, Ninety-second Legislature, Third Special Session, 1992, be amended to read as follows:

69-1310. (a) Every person holding funds or other property, tangible or intangible, presumed abandoned under the Uniform Disposition of Unclaimed Property Act shall report to the State Treasurer with respect to the property as hereinafter provided.

(b) The report shall be verified and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last-known address, if any, of each person appearing from the records of the holder to be the owner of any property presumed abandoned under the act;

(2) In case of unclaimed funds of life insurance corporations, the full name of the insured or annuitant and his or her last-known address according to the life insurance corporation's records;

(3) The nature and identifying number, if any, or description of the property and the amount appearing from the records to be due;

(4) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the

owner with respect to the property; and

(5) Other information which the State Treasurer may prescribe by rule as necessary for the administration of the act.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his or her name while holding the property, he or she shall file with his or her report all prior known names and addresses of each holder of the property.

(d) The report shall be filed before November 1 of each year as of June 30 next preceding, but the report of life insurance corporations shall be filed before May 1 of each year as of December 31 next preceding. A one-time supplemental report shall be filed before April 1, 1993, as of June 30, 1992, as if this act had been in effect prior to July 1, 1992, but the report of life insurance corporations required by this subsection to be filed before May 1, 1993, shall be filed as if this act had been in effect prior to January 1, 1993. The property must accompany the report unless excused by the State Treasurer for good cause. The State Treasurer may postpone the reporting date upon written request by any person required to file a report.

(e) If the holder of property presumed abandoned under the act knows the whereabouts of the owner and if the owner's claim has not been barred by the statute of limitations, the holder shall, before filing the annual report, communicate with the owner and take necessary steps to prevent abandonment from being presumed. The holder shall exercise due diligence to ascertain the whereabouts of the owner.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by a limited liability company, by a member; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

Sec. 416. That section 70-702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-702. ~~In sections 70-701 to 70-738~~ For purposes of the Electric Cooperative Corporation Act, unless the context otherwise requires: (1) Corporation means a corporation organized pursuant to the ~~provisions of said sections~~ act; (2) board means a board of directors of a corporation organized under ~~said sections~~ the act; (3) member means the incorporators of a corporation; and each person thereafter lawfully admitted to membership therein; (4) federal agency includes the United States of America and any department administration, commission, board, bureau, office, establishment, agency, authority, or instrumentality of the United States of America heretofore or hereafter ordered; (5) person includes any natural person, firm, association, corporation, business trust, partnership, limited liability company, federal agency, state, or political subdivision thereof, or any body politic; (6) acquire means and includes construct, acquire by purchase, lease, devise, gift, or other mode of acquisition; (7) obligations include bonds, notes, debentures, interim certificates or receipts, and all other evidences of indebtedness; issued by a corporation; and (8) rural area means any area not included within the

boundaries of any incorporated city, town, or village.

Sec. 417. That section 70-1602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-1602. As used in sections 70-1603 to 70-1615, unless the context otherwise requires, domestic subscriber shall not include municipalities, cities, villages, political subdivisions, companies, corporations, partnerships, limited liability companies, or businesses of any nature.

Sec. 418. That section 71-1,132.35, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,132.35. Except as otherwise herein provided, it shall be unlawful for any person, association, ~~copartnership~~ partnership, limited liability company, corporation, or institution to:

(1) Sell or fraudulently obtain or fraudulently furnish any nursing diploma, license, record, or registration or aid or abet therein;

(2) Practice professional or practical nursing; as defined by section 71-1,132.05; under cover of any diploma, license, record, or registration illegally or fraudulently obtained or signed unlawfully or under fraudulent representation;

(3) Practice professional or practical nursing as defined by section 71-1,132.05 unless duly licensed to do so under ~~the provisions of~~ sections 71-1,132.04 to 71-1,132.09 and 71-1,132.11 to 71-1,132.37;

(4) Use in connection with his ~~or her~~ name any designation tending to imply that he ~~or she~~ is a registered nurse or a licensed practical nurse unless duly licensed so to practice under ~~the provisions of such~~ sections; ~~71-1,132.04 to 71-1,132.09 and 71-1,132.11 to 71-1,132.37~~;

(5) Practice professional or practical nursing during the time his ~~or her~~ license issued under ~~the provisions of such~~ sections ~~71-1,132.04 to 71-1,132.09 and 71-1,132.11 to 71-1,132.37~~ shall be suspended or revoked;

(6) Conduct a school of professional or practical nursing unless the school has been approved by the board; or

(7) Otherwise violate any of the provisions of such sections, ~~71-1,132.04 to 71-1,132.09 and 71-1,132.11 to 71-1,132.37~~.

Sec. 419. That section 71-1,142, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1,142. For purposes of the Uniform Licensing Law, unless the context otherwise requires:

(1) Practice of pharmacy shall mean (a) the interpretation and evaluation of prescription orders; (b) the compounding, dispensing, and labeling of drugs and devices, except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and devices; (c) the participation in drug selection, drug utilization review, drug source selection, and drug administration; (d) the proper and safe storage of drugs and devices and the maintenance of proper records therefor; (e) the responsibility for advising, when necessary or when regulated, of therapeutic values, content, hazards, and use of drugs and devices; and (f) the offering or performing of those acts,

services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy. For a one-year period commencing on July 15, 1992, the dispensing of methadone pursuant to a narcotics treatment program for maintenance or detoxification treatment for narcotics addicts as defined by 21 C.F.R. 291.505 by a licensed registered nurse or licensed practical nurse designated by and pursuant to a lawful order countersigned by a medical practitioner shall not be deemed to be the practice of pharmacy;

(2) Administration shall mean giving a dosage unit of a drug to a patient;

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

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

(5) Department shall mean the Department of Health;

(6) Device shall mean an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component part or accessory, which is required under federal or state law to be prescribed by a medical practitioner and dispensed by a pharmacist;

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

(8) Distribute shall mean the delivery of a drug other than by administering or dispensing;

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

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

(11) Pharmacist shall mean any person who (a) is licensed by the State of Nebraska to practice pharmacy; (b) compounds or dispenses drugs and medicines, or fills the prescriptions of medical practitioners; or (c) advertises drugs, drug store, pharmacy, apothecary, hospital pharmacy, dispensary, or any combination of such titles, or any title or description of like import;

(12) Pharmacy shall mean (a) any establishment, place, or location, which is advertised as a pharmacy, drug store, apothecary, or any establishment where the practice of pharmacy is carried on except as exempted in section 71-1,143, and (b) any establishment, place, or location which is used as a pick-up point, or drop point, including kiosks, for prescriptions to be filled or where prescription medication is made ready for delivery to the patient;

(13) Drugs, medicines, and medicinal substances shall mean all poisonous, dangerous, or deleterious substances and preparations for external or internal use, and (a) articles recognized in the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, the official National Formulary, or any supplement to any of them; (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in humans; (c) articles, except food, intended to affect the structure or any function of the human body; and (d) articles intended for use as a component of any articles specified in subdivision (a), (b), or (c) of this subdivision, except any device or its components, parts, or accessories, and except patent and proprietary medicines;

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

(15) Pharmacist in charge shall mean a pharmacist licensed by the State of Nebraska to practice pharmacy who has been designated on a pharmacy permit or designated by a public or private hospital licensed by the Department of Health as being responsible for the practice of pharmacy in the pharmacy for which such permit is issued or such hospital's inpatient pharmacy;

(16) Pharmacy intern shall mean a student currently enrolled in, or a graduate of, an accredited college or school of pharmacy serving his or her internship. Such pharmacy intern may compound and dispense drugs and medicines and fill prescriptions only in the presence of and under the immediate personal supervision of a licensed pharmacist who must either be the person to whom the pharmacy permit is issued or in the actual employ of the permittee;

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

(18) Prescription drug order or prescription shall mean a lawful written or verbal order of a medical practitioner for a drug;

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

(20) Supportive pharmacy personnel shall mean any individual who is trained and qualified, according to the written standards of the employing hospital inpatient pharmacy, to perform routine pharmacy functions, under the supervision of a licensed pharmacist, which

do not require the use of professional judgment, in connection with the preparation and distribution of medications.

Sec. 420. That section 71-1,154, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1,154. When used in the Nebraska Veterinary Practice Act and elsewhere in the Uniform Licensing Law, unless the context otherwise requires:

(1) Animal shall mean any animal other than man and shall include birds, fish, and reptiles, wild or domestic, living or dead, except domestic poultry;

(2) Veterinary medicine and surgery shall include veterinary surgery, obstetrics, dentistry, and all other branches or specialties of veterinary medicine;

(3) Practice of veterinary medicine and surgery shall mean:

(a) To diagnose, treat, correct, change, relieve, or prevent animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility, or infertility, or to render advice or recommendation with regard to any of the above;

(b) To represent, directly or indirectly, publicly or privately, an ability and willingness to do any act described in subdivision (a) of this subdivision; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subdivision (a) of this subdivision;

(4) Veterinarian shall mean a person who has received a doctor's degree in veterinary medicine from an accredited school of veterinary medicine;

(5) Licensed veterinarian shall mean a person who is validly and currently licensed to practice veterinary medicine and surgery in this state;

(6) Accredited school of veterinary medicine within the meaning of the Nebraska Veterinary Practice Act shall mean:

(a) One approved by the department upon the recommendation of the board;

(b) A veterinary college or division of a university or college that offers the degree of Doctor of Veterinary Medicine or its equivalent; and

(c) One that conforms to the standards required for accreditation by the American Veterinary Medical Association;

(7) Person shall mean any individual, firm, partnership, limited liability company, association, joint venture, cooperative and corporation, or any other group or combination acting in concert; and whether or not acting as a principal, trustee, fiduciary, receiver, or as any

other kind of legal or personal representative, or as the successor in interest, assignee, agent, factor, servant, employee, director, officer, or any other representative of such person;

(8) Board shall mean the State Board of Examiners in Veterinary Medicine and Surgery;

(9) Department shall mean the Department of Health; and

(10) Bureau shall mean the Bureau of Examining Boards of the Department of Health.

Sec. 421. That section 71-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-201. No person shall practice or attempt to practice barbering as defined in section 71-202; without a license issued pursuant to ~~the provisions of~~ Chapter 71, article 2, by the Board of Barber Examiners. It shall be unlawful to operate a barber shop unless it is at all times under the direct supervision and management of a registered 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 of Barber Examiners. All barber shop licenses shall be issued on or before June 30, effective as of July 1 of each year, shall be good for one year, and shall expire on the succeeding June 30. Any such license may be suspended, revoked, or renewal denied by the Board of Barber Examiners for violation of any provision of the statutes or rule of the board pertaining to the operation of barber shops or barber schools; or any regulation of the Department of Health pertaining to sanitation, after due notice and hearing before the board.

Sec. 422. That section 71-363, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-363. Person shall mean any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock association, or similar entity and shall include any trustee, receiver, assignee, or personal representative thereof.

Sec. 423. That section 71-1331, Revised Statutes Supplement, 1992, be amended to read as follows:

71-1331. (1) Every licensed funeral establishment shall pay biennially a fee for the renewal of its license. The renewal fee payable by a licensed funeral establishment shall be established in rules and regulations of the department and shall be not less than ten dollars and not more than four hundred dollars. All renewal fees shall become due and payable on February 1 of each even-numbered year. Renewals shall be processed in accordance with section 71-110.

(2) Any person, partnership, limited liability company, firm, corporation, association, or other organization which (a) without having complied with sections 71-1325 to 71-1336 and without having first obtained a license (i) engages directly or indirectly in the business of funeral directing, (ii) holds himself, herself, or itself out to the public as a funeral director, or (iii) performs or attempts to perform any of the services of a funeral establishment or of a funeral director relating to the disposition of dead human bodies or (b) continues to perform such

services after the license has expired or has been revoked or suspended shall be guilty of a Class III misdemeanor and shall be dealt with in the same manner as outlined in section 71-167. Each day so engaged in such business shall constitute and be deemed a separate offense.

Sec. 424. That section 71-1557, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) Modular housing unit shall mean any dwelling whose construction consists entirely of or the major portions of its construction consist of a unit or units not fabricated on the final site for the dwelling unit, which units are movable or portable until placed on a permanent foundation and connected to utilities. Modular housing units shall be taxed as real estate. The term modular housing unit shall not include a manufactured home as defined in section 71-4603;

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

(3) Seal shall mean a device or insignia issued by the Department of Health to be displayed on the exterior of the modular housing unit to evidence compliance with departmental standards;

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

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

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

(7) Department shall mean the Department of Health.

Sec. 425. That section 71-1901, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-1901. As used in sections 71-1901 to 71-1905:

(1) Person shall include a partnership, limited liability company, firm, agency, association, or corporation;

(2) Child shall mean an unemancipated minor;

(3) Child care shall mean engaged in the business 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 but shall not include casual care at irregular intervals or early childhood programs, as defined in section 71-1910; and

(4) Department shall mean the Department of Social Services of the State of Nebraska.

Sec. 426. That section 71-2020, Revised Statutes Supplement, 1992, be amended to read as follows:

71-2020. Applicants for a license shall file applications under oath with the Department of Health upon forms prescribed and shall pay a license fee of fifty dollars as a base fee, except that hospitals, skilled nursing facilities, intermediate care facilities, nursing facilities, and intermediate care facilities for the mentally retarded shall pay a license fee of one hundred twenty-five dollars as a base fee. In addition to such base fee, hospitals, skilled nursing facilities, intermediate care facilities, nursing facilities, and intermediate care facilities for the mentally retarded shall pay a fee of five dollars for each bed available for patients of the facility, and all other types of facilities shall pay a fee of one dollar for each bed available for patients thereof. Such fees shall be paid into the state treasury and by the State Treasurer credited to the General Fund, or if the license is denied, that part of the fees paid for beds available shall be returned to the applicant. ~~A facility licensed as a hospital, a skilled nursing facility, or an intermediate care facility on January 1, 1991, may apply for a license as a nursing facility without payment of the initial license fee if the application is made to the department by October 1, 1991.~~

Applications shall be signed (1) by the owner, if an individual or partnership, (2) by two of its members, if a limited liability company, (3) by two of its officers, if a corporation, or ~~(3)~~ (4) by the head of the governmental department having jurisdiction over it, if a governmental unit. Applications shall set forth the full name and address of the institution for which license is sought, and of the owner in case of different address, the names of the persons in control thereof, and such additional information as the Department of Health may require, including affirmative evidence of ability to comply with such reasonable standards, rules, and regulations as may be lawfully prescribed hereunder.

Sec. 427. That section 71-2023, Revised Statutes Supplement, 1992, be amended to read as follows:

71-2023. The Department of Health shall issue licenses for the operation of health care facilities subject to sections 71-2017 to 71-2029 and the Nebraska Nursing Home Act which are found to comply with such sections or act and such rules and regulations as are lawfully adopted and promulgated by the department. As a condition for licensure or renewal of a license, such institutions shall submit to the department a list of the names of all individual owners, partners, members, and members of boards of directors owning or managing such institutions and any other persons with financial interests or investments in such institutions. Every such licensed institution shall have a sign prominently posted in the lobby or entry area of such institution. Such sign shall be in the form of a printed card with a minimum height of twenty inches and a width of fourteen inches with each letter to be a minimum of one-fourth inch in height. The sign shall contain the name, street address, city, state, and zip code of all individual owners, partners, and members of the board of directors owning or managing such institution, except that the name of any owner who owns less than five percent of the institution shall not be included on the sign.

The department may (1) deny, suspend, or revoke licenses of such health care facilities or (2) take other disciplinary measures against the license of any such health care facility, other than a hospital, on any of the following grounds:

(a) Violation of any of the provisions of sections 71-2017 to 71-2029 or the Nebraska Nursing Home Act or the rules and regulations lawfully adopted and promulgated pursuant thereto;

(b) Permitting, aiding, or abetting the commission of any unlawful act;

(c) Conduct or practices detrimental to the health or safety of patients, residents, and employees of the facility, except that this subdivision shall not be construed to have any reference to healing practices authorized by law;

(d) Failure to allow a state long-term care ombudsman or an ombudsman advocate access to such facility for the purposes of investigation necessary to carry out the duties of the office of the state long-term care ombudsman as specified in the rules and regulations promulgated by the Department on Aging; or

(e) Discrimination or retaliation against an employee or resident of any such facility who has presented a grievance or information to the office of the state long-term care ombudsman.

If the Department of Health determines to deny, suspend, or revoke a license, it shall send to the applicant or licensee, by either registered or certified mail, a notice setting forth the particular reasons for the determination. The denial, suspension, or revocation shall become final thirty days after the mailing of the notice unless the applicant or licensee, within such thirty-day period, requests a hearing in writing. Thereupon the applicant or licensee shall be given a fair hearing before the department and shall have the right to present such evidence as may be proper. On the basis of such evidence, the determination involved shall be affirmed or set aside, and a copy of such decision setting forth the finding of facts and the particular reasons upon which it is based shall be sent by either registered or certified mail to the applicant or licensee. The decision shall become final thirty days after the copy is mailed unless the applicant or licensee, within such thirty-day period, appeals the decision under section 71-2027. The procedure governing hearings authorized by this section shall be in accordance with rules and regulations adopted and promulgated by the department. A full and complete record shall be kept of all proceedings. Witnesses may be subpoenaed by either party and shall be allowed fees at a rate prescribed by the rules and regulations.

Other disciplinary actions taken shall be in accordance with the applicable provisions of sections 71-2023.01 to 71-2023.07 or 71-6025 to 71-6031.

Sec. 428. That section 71-2028, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2028. Any person, partnership, limited liability company, association, or corporation (1) establishing, conducting, managing, or operating any institution within the meaning of sections

71-2017 to 71-2029 without first obtaining a license therefor as herein provided; or (2) violating any of the provisions of such sections ~~71-2017 to 71-2029~~ or regulations lawfully promulgated thereunder; shall be guilty of a Class IV misdemeanor, and each day such facility as defined in section 71-2017 ~~shall operate~~ operates after a first conviction shall be considered a subsequent offense, except that penalties for violating rules and regulations adopted pursuant to sections 71-6008 to 71-6037 shall be the penalties set forth in ~~sections 71-6008 to 71-6037~~ such sections.

Sec. 429. That section 71-2029, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2029. The Department of Health may, in accordance with the laws of the state governing injunctions and other process, maintain an action in the name of the state against any person, partnership, limited liability company, association, or corporation; or against any state, county, or local governmental unit, or any division, department, board or agency thereof, for establishing, conducting, managing, or operating any hospital or related institution within the meaning of sections 71-2017 to 71-2029 without first having a license therefor as herein provided. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, conduct, manage, or operate a hospital or related institution without having a license to do so without averring any further or more particular facts concerning the same.

Sec. 430. That section 71-2059, Revised Statutes Supplement, 1992, be amended to read as follows:

71-2059. A political subdivision, state agency, or other governmental entity which owns or operates a hospital or hospital health service shall, relative to the delivery of health care services, have the authority to:

(1) Enter into agreements with other health care providers to share services or provide a tangible benefit to the hospital and into other cooperative ventures;

(2) Join or sponsor membership in organizations or associations intended to benefit the hospital or hospitals in general;

(3) Enter into partnerships;

(4) Create or merge with other corporations;

(5) Create or merge with other limited liability companies;

(6) Have members of its governing authority or its officers or administrators serve without pay as directors or officers of any such venture, organization, association, partnership, limited liability company, or corporation;

~~(6)~~ (7) Offer, directly or indirectly, products and services of the hospital or any such venture, organization, association, partnership, limited liability company, or corporation to the general public; and

~~(7)~~ (8) Acquire, erect, staff, equip, or operate one or more medical office buildings, clinic buildings, or other buildings or parts thereof for medical services. Such buildings or parts may be freestanding facilities or additions to or parts of an existing hospital or health care

facility. Unless the governmental entity declares otherwise, the building or parts shall be considered an addition or improvement to the existing facilities. The governmental entity may lease all or part of such building to one or more health care practitioners or groups of health care practitioners or otherwise allow health care practitioners the use thereof on such terms as the governmental entity deems appropriate. Such lease or other use shall not be required to comply with public bidding requirements or approval of the electorate.

Sec. 431. That section 71-2511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2511. Any person, ~~copartnership~~ partnership, limited liability company, association, or corporation violating any of the provisions of sections 71-2502 to 71-2511 or any of the rules or regulations passed by the Director of Health pursuant to the ~~provisions of said~~ provisions sections; shall be deemed guilty of a Class V misdemeanor.

Sec. 432. That section 71-3101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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, together with the tract of land appertaining thereto, established or maintained for more than a forty-eight-hour period as living quarters used for purpose 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 ~~the provisions of~~ Chapter 41;

(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, ~~of the State of Nebraska.~~

Sec. 433. That section 71-3201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-3201. As used in sections 71-3201 to 71-3213, unless the context otherwise requires:

(1) Applicant shall mean any person who makes application for a license under ~~the provisions of such~~ sections; ~~71-3201 to 71-3213;~~

(2) License shall mean a license to engage in the private detective business as a private detective, as a private detective agency, or as a plain clothes investigator in the State of Nebraska;

(3) Licensee shall mean any person licensed under ~~the provisions of such~~ sections; ~~71-3201 to 71-3213;~~

(4) Person shall mean and include any individual, firm, partnership, limited liability company, association, company, corporation, or other legal entity;

(5) Plain clothes investigator shall mean and include any individual, other than a private detective, who as an employee and on behalf of a private detective agency without any identifying uniform performs services consisting wholly or partially of detective or investigative activity within the scope of the private detective business;

(6) Private detective shall mean any individual who as a sole proprietor engages in the private detective business without the assistance of any employee;

(7) Private detective agency shall mean any person who as other than a private detective or a plain clothes investigator engages in the private detective business;

(8) Private detective business shall mean and include any private business engaged in by any person defined in subdivision (4) of this section who advertises or holds himself or herself out to the public, in any manner, as being engaged in the secret service or private policing business; and

(9) Secretary shall mean the Secretary of State, ~~of the State of Nebraska.~~

Sec. 434. That section 71-3503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

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

(1) Radiation shall mean ionizing radiation and nonionizing radiation as follows:

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

(b) Nonionizing radiation shall mean (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 shall mean any material, whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material shall include, but not be limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material;

(3) Radiation-generating equipment shall mean 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 shall mean any radioactive

material, radiation-generating equipment, or any device or equipment emitting or capable of emitting radiation or radioactive material;

(5) Undesirable radiation shall mean 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 shall mean 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 but shall not include federal government agencies;

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

(8) Department shall mean the Department of Health;

(9) Coordinator shall mean the Director of Health;

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

(11) Electronic product shall mean 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) License shall mean:

(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; or

(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;

(13) Byproduct material shall mean:

(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; or

(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;

(14) Source material shall mean:

(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 shall not include special nuclear material;

(15) Special nuclear material shall mean:

(a) Plutonium, uranium 233, or uranium enriched in the isotope 233 or in the isotope 235 but shall not include source material; or

(b) Any material artificially enriched by any such materials but shall not include source material;

(16) Users of sources of radiation shall mean:

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

(18) Closure shall mean 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) Decommissioning shall mean 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 preoperational care;

(20) Disposal shall mean 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) Generate shall mean to produce low-level radioactive waste when used in relation to low-level radioactive waste;

(22) High-level radioactive waste shall mean:

(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) Low-level radioactive waste shall mean radioactive waste not defined as high-level radioactive waste, spent nuclear fuel, or byproduct material as defined in subdivision (13)(b) of this section;

(24) Management of low-level radioactive waste shall mean 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) Source material mill tailings or mill tailings shall mean 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) Source material milling shall mean any processing of ore, including underground solution extraction of unmixed 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) Spent nuclear fuel shall mean 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 shall include the special nuclear material, byproduct material, source material, and other radioactive material associated with fuel assemblies;

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

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

(30) X-ray system shall mean 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 shall be considered integral parts of the system.

Sec. 435. That section 71-4603, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4603. As used in the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, unless the context otherwise requires:

(1) Manufactured home shall mean a structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or forty body feet or more in length or when erected on site is three hundred twenty or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure that meets all of the requirements of this definition other than the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and

Urban Development and complies with the standards established under 42 U.S.C. 5401 et seq. Manufactured home shall also include any manufactured home designed and manufactured with more than one separate living unit for the purpose of multifamily living;

(2) Recreational vehicle shall mean a vehicular type unit, primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or towed by another vehicle. The term recreational vehicle shall include, but not be limited to, travel trailer, park trailer, camping trailer, truck camper, motor home, and van conversion;

(3) Travel trailer shall mean a vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use and of such size or weight as not to require special highway movement permits when towed by a motor vehicle and with a living area of less than two hundred and twenty square feet excluding built-in equipment such as wardrobes, closets, cabinets, kitchen units or fixtures, and bath and toilet rooms;

(4) Camping trailer shall mean a vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use;

(5) Truck camper shall mean a portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, and designed to be loaded onto and unloaded from the bed of a pickup truck;

(6) Motor home shall mean a vehicular unit primarily designed to provide temporary living quarters which are built into an integral part of, or permanently attached to, a self-propelled motor vehicle chassis or van, containing permanently installed independent life-support systems that meet the departmental standard for recreational vehicles and providing at least four of the following facilities: Cooking; refrigeration or ice box; self-contained toilet; heating, air conditioning, or both; a potable water supply system including a faucet and sink; separate one-hundred-twenty-nominal-volt electrical power supply; or LP gas supply;

(7) Park trailer shall mean a vehicular unit which meets the following criteria:

(a) Built on a single chassis mounted on wheels;

(b) Designed to provide seasonal or temporary living quarters which may be connected to utilities necessary for operation of installed fixtures and appliances;

(c) A size or weight not required to have special highway movement permits when towed by a motor vehicle;

(d) Constructed to permit setup by persons without special skills using only hand tools which may include lifting, pulling, and supporting devices; and

(e) Width not exceeding eight body feet and length not exceeding forty body feet when in the traveling mode;

(8) Van conversion shall mean a completed vehicle permanently altered cosmetically, structurally, or both which has been recertified by the state as a multipurpose passenger vehicle, but does not conform to or otherwise meet the definition of a motor home in this section, and that contains at least one plumbing, heating, or one-hundred-twenty-nominal-volt electrical component subject to the provisions of the department standard for recreational vehicles, but shall not include any such vehicle that lacks any plumbing, heating, or one-hundred-twenty-nominal-volt electrical system, but contains an extension of the low-voltage automotive circuitry;

(9) Seal shall mean a device or insignia issued by the Department of Health to be displayed on the exterior of a manufactured home or recreational vehicle to evidence compliance with the departmental standards. The federal manufactured-home label shall be recognized as a seal;

(10) Dealer shall mean a person licensed by the state pursuant to Chapter 60, article 14, as a dealer in manufactured homes or recreational vehicles or any other person, other than a manufacturer, who sells, offers to sell, distributes, or leases manufactured homes or recreational vehicles primarily to persons who in good faith purchase or lease a manufactured home or recreational vehicle for purposes other than resale;

(11) Distributor shall mean any person engaged in the sale and distribution of manufactured homes or recreational vehicles for resale;

(12) Manufacturer shall mean any person engaged in manufacturing, assembling, or completing manufactured homes or recreational vehicles;

(13) Manufactured-home construction shall mean all activities relating to the assembly and manufacture of a manufactured home, including, but not limited to, those relating to durability, quality, and safety;

(14) Manufactured-home safety shall mean the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

(15) Defect shall mean any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(16) Imminent safety hazard shall mean a hazard that presents an imminent and unreasonable risk of death or severe personal injury;

(17) Purchaser shall mean the first person purchasing a manufactured home in good faith for purposes other than resale;

(18) Person shall mean any individual, partnership, limited liability company, company, corporation, or association engaged in

manufacturing, selling, offering to sell, or leasing manufactured homes or recreational vehicles; and

(19) Department shall mean the Department of Health.

Sec. 436. That section 71-4621, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4621. As used in sections 71-4621 to 71-4634, unless the context otherwise requires:

(1) Mobile home shall mean a movable or portable dwelling constructed to be towed on its own chassis, connected to utilities, and designed with or without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units, separately towable but designed to be joined into one integral unit, and shall include a manufactured home as defined in section 71-4603;

(2) Mobile home lot shall mean a designated portion of a mobile home park designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants;

(3) Mobile home park shall mean a parcel or contiguous parcels of land which have been so designated and improved that it contains two or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy. The term mobile home park shall not be construed to include mobile homes, buildings, tents, or other structures temporarily maintained by any individual, corporation, limited liability company, company, or other entity on its own premises and used exclusively to house its own labor force;

(4) Department shall mean the Department of Health; and

(5) Person shall mean any individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity, and shall include any trustee, receiver, assignee, or other legal representative thereof.

Sec. 437. That section 71-4623, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4623. The application for such annual license to conduct, operate, and maintain a mobile home park shall be in writing and upon such form as the department shall provide; and shall include the full name and address of the applicant or applicants, the ~~or~~ names and addresses of the partner if the applicant is a partnership, the names and addresses of the members if the applicant is a limited liability company, or the names and addresses of the officers if the applicant is a corporation, and the current or most recent occupation of the applicant at the time of the filing of the application, and such other pertinent data as the department may require by regulation.

Sec. 438. That section 71-4702, Revised Statutes Supplement, 1992, be amended to read as follows:

71-4702. (1) No person shall engage in the sale of or practice of fitting hearing aids or display a sign or in any other way

advertise or represent himself or herself as a person who practices the fitting and sale or dispensing of hearing aids unless he or she holds an unsuspended, unrevoked license issued by the department as provided in sections 71-4701 to 71-4719. The license shall be conspicuously posted in his or her office or place of business. A license shall confer upon the holder the right to select, fit, and sell hearing aids.

(2) Nothing in such sections shall prohibit a corporation, partnership, limited liability company, trust, association, or other like organization maintaining an established business address from engaging in the business of selling or offering for sale hearing aids at retail without a license if it employs only properly licensed natural persons in the direct sale and fitting of such products. Such corporation, partnership, limited liability company, trust, association, or like organization shall file annually with the board a list of all licensed hearing aid instrument dispensers and fitters directly or indirectly employed by it. Such corporation, partnership, limited liability company, trust, association, or like organization shall also file with the board a statement on a form approved by the board that it submits itself to the rules and regulations of the department and the provisions of such sections which the department deems applicable.

(3) Nothing in such sections shall prohibit the holder of a license from the fitting and sale of wearable instruments or devices designed for or offered for the purpose of conservation or protection of hearing.

Sec. 439. That section 71-4801, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-4801. ~~As used in sections 71-4801 to 71-4812~~ For purposes of the Uniform Anatomical Gift Act, unless the context otherwise requires:

(1) Bank or storage facility means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof;

(2) Decedent means a deceased individual and includes a stillborn infant or fetus;

(3) Donor means an individual who makes a gift of all or part of his or her body;

(4) Hospital means a hospital licensed, accredited, or approved under the laws of any state and includes a hospital operated by the United States Government, a state, or a subdivision thereof, although not required to be licensed under state laws;

(5) Part includes organs, tissues, eyes, bones, arteries, blood, other fluids, and other portions of a human body, and parts includes parts;

(6) Person means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, or association, or ~~any~~ other legal entity;

(7) Physician or surgeon means a physician or surgeon licensed or authorized to practice under the laws of any state; and

(8) State includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

Sec. 440. That section 71-5102, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5102. For purposes of sections 60-337 and 71-5101 to 71-5164, unless the context otherwise requires:

(1) Airway shall mean a route for the passage of air into and out of the lungs;

(2) Ambulance or rescue service unit shall mean any privately or publicly owned motor vehicle that is especially designed, constructed or modified, and equipped and is intended to be used for and is maintained or operated for the overland transportation of patients upon the streets, roads, highways, or public ways in this state, including funeral coaches or hearses, or any other motor vehicles used for such purposes, but shall not include or mean any motor vehicle owned or operated under the direct control of an agency of the United States Government;

(3) Ambulance attendant shall mean an individual trained or qualified to provide for, or any other individual who provides for, the care of patients while such patients are being transported in an ambulance;

(4) Artificial airway shall mean a device that is inserted through the nose or mouth to allow passage of air and oxygen to the lungs;

(5) Artificial ventilation shall mean opening the airway and restoring breathing by mouth-to-mouth or mouth-to-nose ventilation and by the use of mechanical devices;

(6) Automatic defibrillator shall mean a monitor or device capable of rhythm analysis which will charge and deliver a shock after electronically detecting the presence of ventricular fibrillation or rapid ventricular tachycardia;

(7) Basic life support shall mean those acts ordinarily performed after training by emergency medical technicians, including the use of oxygen, syrup of ipecac, pharyngeal airways, and pneumatic antishock garments, and not specifically preempted and separately licensed under the Emergency Medical Technician-Paramedic Act. When special training and certification requirements have been met, basic life support shall also include the use of automatic and semiautomatic defibrillators, the administration and maintenance of intravenous fluids, and the administration of nonvisualized advanced airway management devices;

(8) Board shall mean the Board of Ambulance Advisors;

(9) Certification shall mean formal notice of certain privileges and abilities after completion of certain training and testing;

(10) Certified ambulance attendant shall mean any individual fulfilling the requirements of section 71-5109 and shall include an emergency medical technician-ambulance meeting such requirements regardless of whether such emergency medical technician-ambulance is a member of a transporting ambulance service or rescue service;

(11) Contraindication shall mean a condition that renders a medical procedure, treatment, or medication undesirable;

(12) Defibrillation shall mean the automatic or semiautomatic application of electrocountershock therapy to persons in ventricular fibrillation or rapid ventricular tachycardia;

(13) Department shall mean the Department of Health;

(14) Division shall mean the Division of Emergency Medical Services of the department;

(15) Electrolytes shall mean salts dissolved in body fluids and cells;

(16) Emergency medical technician-A or emergency medical technician-ambulance shall mean a prehospital emergency care provider trained and certified to that level of basic life support prescribed in subsection (2) of section 71-5109 and for such other skills as determined by the department;

(17) Emergency medical technician-A/D or emergency medical technician-ambulance/defibrillator shall mean an emergency medical technician-A who has been additionally trained, tested, and certified in the use and operation of automatic or semiautomatic defibrillators pursuant to rules and regulations adopted and promulgated by the department pursuant to sections 71-5101 to 71-5140;

(18) Emergency medical technician-A/D service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-A/D and a physician medical director to provide prehospital emergency care and to provide defibrillation;

(19) Emergency medical technician-AM or emergency medical technician-airway management shall mean an emergency medical technician-A who has been additionally trained, tested, and certified in the use and operation of nonvisualized advanced airway management devices pursuant to rules and regulations adopted and promulgated by the department;

(20) Emergency medical technician-AM service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-AM and a physician medical director to provide prehospital emergency care and to provide nonvisualized advanced airway management;

(21) Emergency medical technician-IV or emergency medical technician-intravenous shall mean an emergency medical technician-A who has been additionally trained, tested, and certified in the use and operation of peripheral intravenous line initiation and maintenance pursuant to rules and regulations adopted and promulgated by the department;

(22) Emergency medical technician-IV service shall mean any privately or publicly owned entity, or any combination thereof, utilizing certified emergency medical technicians-IV and a physician medical director to provide prehospital emergency care and to provide peripheral intravenous line initiation and maintenance;

(23) Endotracheal intubation shall mean a method of airway management in which a tube is placed through a patient's mouth or nose and directly through the larynx between the vocal cords while visualizing the vocal cords and into the trachea for the purpose of opening and maintaining an airway;

(24) First responder-A/D shall mean a first responder who has been additionally trained, tested, and certified in the use and operation of automatic or semiautomatic defibrillators pursuant to rules and regulations adopted and promulgated by the department pursuant to sections 71-5101 to 71-5140;

(25) First responder-A/D service shall mean a first responder service utilizing first responders-A/D and a physician medical director to provide prehospital emergency care and to provide defibrillation;

(26) Hypovolemic shock shall mean shock resulting from loss of body fluid or blood;

(27) Infusion shall mean the introduction of fluid other than blood or blood products into the vascular system;

(28) Intravenous shall mean within the vein;

(29) Intravenous line shall mean a polyethylene catheter through which fluids are given directly into a vein;

(30) Oropharyngeal airway shall mean an artificial airway positioned in the mouth to prevent blockage of the upper airway by the tongue;

(31) Oxygen shall mean a gas that is necessary for breathing and is found free in the air;

(32) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(33) Peripheral intravenous therapy shall mean infusion of fluid other than blood or blood products into the vascular system to establish and maintain access to the circulation or to provide fluids in order to maintain an adequate circulatory blood volume;

(34) Person shall mean an individual, firm, partnership, limited liability company, corporation, company, association, joint-stock company or association, political subdivision, governmental agency, or other legal entity and shall include any trustee, receiver, assignee, or other legal representative thereof but shall not include any agency of the United States Government;

(35) Physician medical director shall mean a physician licensed to practice medicine and surgery pursuant to the Uniform Licensing Law who is responsible for the medical supervision of certified emergency medical technicians-A/D, emergency medical technicians-IV, or emergency medical technicians-AM and is responsible for proctoring their proficiency maintenance and continuing education requirements;

(36) Primary response service area shall mean the primary geographic area which an ambulance service, first responder-A/D service, emergency medical technician-A/D service, emergency medical technician-AM service, or emergency medical technician-IV service serves

and which such service has sufficient staff and equipment to reasonably serve;

(37) Protocols shall mean a set of written policies, procedures, and directions from a physician medical director to an emergency medical technician concerning the medical procedures to be performed in specific situations;

(38) Resuscitation shall mean restoring to life or consciousness by using assisted breathing to restore ventilation and cardiopulmonary resuscitation or defibrillation to restore circulation;

(39) Semiautomatic defibrillator shall mean a monitor or device which is capable of electronically detecting a ventricular fibrillation and rapid ventricular tachycardia but requires user interaction in order to deliver a shock;

(40) Standing orders shall mean a direct order from the physician medical director to perform certain tasks for a patient under a specific set of circumstances;

(41) Syrup of ipecac shall mean a preparation of the direct root of a shrub found in Brazil and other parts of South America that can cause vomiting; and

(42) Ventilation shall mean the exchange of air between the lungs and the air of the environment as in breathing.

Sec. 441. That section 71-5301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5301. As used in the Nebraska Safe Drinking Water Act, unless the context otherwise requires:

(1) Council shall mean the Advisory Council on Public Water Supply;

(2) Director shall mean the Director of Health or his or her authorized representative;

(3) Designated agent shall mean any political subdivision or corporate entity having the demonstrated capability and authority to carry out in whole or in part the provisions of the Nebraska Safe Drinking Water Act and with whom the director has consummated a legal and binding contract covering specifically delegated responsibilities;

(4) Major construction, extension, or alteration shall mean those structural changes that affect the source of supply, treatment processes, or transmission of water to service areas but shall not include the extension of service mains within established service areas;

(5) Operator shall mean the individual or individuals responsible for the continued performance of the water supply system or any part of such system during assigned duty hours;

(6) Owner shall mean any person owning or operating a public water supply system;

(7) Person shall mean any individual, firm, partnership, limited liability company, association, company, corporation, political subdivision, or other entity;

(8) Water supply system shall mean all sources of water and their surroundings under the control of one owner and shall include

all structures, conduits, and appurtenances by means of which such water is collected, treated, stored, or delivered except service pipes between street mains and buildings and the plumbing within or in connection with the buildings served;

(9) Public water supply system shall mean a water supply system designed to provide the public piped water fit for human consumption if such system has at least fifteen service connections or regularly serves at least twenty-five individuals. This definition shall include, but not be limited to, (a) any collection, treatment, storage, or distribution facilities under control of the operator of such system and used primarily in connection with such system and (b) any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system;

(10) Drinking water standards shall mean rules and regulations adopted and promulgated pursuant to section 71-5302 which (a) establish maximum levels for harmful materials which, in the judgment of the director, may have an adverse effect on the health of persons and (b) apply only to public water supply systems; and

(11) Lead free (a) when used with respect to solders and flux shall mean solders and flux containing not more than two-tenths percent lead and (b) when used with respect to pipe and pipe fittings shall mean pipe and pipe fittings containing not more than eight percent lead.

Sec. 442. That section 71-5502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5502. For purposes of the Emergency Medical Technician-Paramedic Act, unless the context otherwise requires:

(1) Approved licensed physician shall mean an individual who:

(a) Is licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107 or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141;

(b) Is qualified and knowledgeable in the management of emergency care and services; and

(c) Is currently certified as an advanced cardiac life-support provider or instructor by a national organization which has procedures for certifying such providers or instructors, such as the American Heart Association;

(2) Approved training program shall mean a program for the education and training of an emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic which the board and department approve;

(3) Board shall mean the Board of Advanced Emergency Medical Care;

(4) Department shall mean the Department of Health;

(5) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(6) Person shall mean an individual, firm, partnership, limited liability company, corporation, company, association, joint-stock

company or association, political subdivision, governmental agency, or other legal entity and shall include any trustee, receiver, assignee, or other legal representative thereof but shall not include any agency of the United States Government;

(7) Physician shall mean an individual licensed to practice medicine and surgery pursuant to sections 71-1,102 to 71-1,107 or osteopathic medicine and surgery pursuant to sections 71-1,137 to 71-1,141;

(8) Approved physician surrogate shall mean a qualified, trained medical person, such as a registered nurse or physician assistant, designated by an approved licensed physician in writing to act as a substitute for the physician in directing the actions of an emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic and approved as such by the service program medical director and the board;

(9) Emergency medical technician-intermediate shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Meets all the requirements for certification as a duly certified ambulance attendant pursuant to sections 71-5109 and 71-5110;

(c) Is trained in an approved training program to administer intravenous solutions and perform endotracheal airway management and other authorized aids to ventilation, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(d) Has been examined and certified as an emergency medical technician-intermediate by the board and the department to provide advanced emergency care described in subsection (2) of section 71-5520;

(10) Emergency medical technician-paramedic shall mean a person who:

(a) Meets the requirements of subdivisions (9)(a) through (c) of this section;

(b) Is trained in an approved training program to provide advanced cardiac life support, to administer drugs under written or oral authorization of an approved licensed physician, and to perform any of the procedures described in subsection (3) of section 71-5520, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(c) Has been examined and certified as an emergency medical technician-paramedic by the board and the department to provide advanced emergency medical care described in subsection (3) of section 71-5520;

(11) Emergency medical technician-D shall mean a person who:

(a) Renders emergency care, rescue, and resuscitation services;

(b) Meets all the requirements for certification as a duly certified ambulance attendant pursuant to sections 71-5109 and 71-5110;

(c) Is trained in an approved training program to manually determine the need for and administer cardiac electrical countershock in the treatment of asystole, ventricular fibrillation, or ventricular tachycardia with collapse, under the supervision of an approved licensed physician or approved physician surrogate specifically designated by such physician, during training and after certification; and

(d) Has been examined and certified as an emergency medical technician-D by the board and the department to provide advanced emergency medical care described in subsection (1) of section 71-5520;

(12) Trainee shall mean any person who is currently enrolled in an approved training program for emergency medical technician-D, emergency medical technician-intermediate, or emergency medical technician-paramedic;

(13) Field supervisor shall mean any emergency medical technician-paramedic, emergency medical technician-intermediate, registered nurse, physician assistant, or approved licensed physician, employed by or acting as an agent of an approved training program, who supervises trainees in an approved training program and who has been certified as a field supervisor by the board and the department by virtue of having met all requirements established by the board for such certification;

(14) Approved service program shall mean an organized emergency medical response or transportation unit, or both, which utilizes the services of persons certified as emergency medical technicians-D, emergency medical technicians-intermediate, or emergency medical technician-paramedics and which has been approved as such by the board and the department. Approved service program shall include military emergency services operating in cooperation with surrounding communities;

(15) Service program medical director shall mean an approved licensed physician who shall be responsible for the overall medical control of an approved service program;

(16) Supervising physician shall mean an approved licensed physician designated by the service program medical director to supervise advanced emergency medical care technicians by means of radio, telephone, and other approved communications systems whenever the technicians are providing prehospital care;

(17) Technician shall mean a person who renders advanced emergency care, rescue, and resuscitation services and who meets all the requirements for certification as a duly certified ambulance attendant pursuant to sections 71-5109 and 71-5110; and

(18) Training program medical director shall mean an approved licensed physician appointed by the governing body of the accredited community college, college, or university administering the

approved training program who shall be responsible for the overall medical direction of the approved training program.

Sec. 443. That section 71-5810, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5810. Health care facility shall include hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, kidney disease treatment centers, including freestanding hemodialysis units, intermediate care facilities, nursing facilities, ambulatory surgical facilities, inpatient facilities owned or controlled by health maintenance organizations, rehabilitation facilities, and other comparable facilities.

Health care facility shall not include Christian Science Sanatoriums operated or listed and certified by the First Church of Christ Scientist, Boston, Massachusetts, facilities operated solely as part of the professional practice of an independent practitioner, partnership, limited liability company, or professional corporation as defined in section 21-2202, home health agencies, or alcoholism or drug abuse treatment facilities which do not offer medical services under professional supervision.

Sec. 444. That section 71-5811, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5811. Health maintenance organization shall mean a public or private organization organized under the laws of this state which:

(1) Provides or otherwise makes available to enrolled participants health care services, including at least the following basic health care services: (a) Usual physician services; (b) hospitalization; (c) laboratory; (d) X-ray; (e) emergency and preventive services; and (f) out-of-area coverage;

(2) Is compensated, except for copayments, for the provision of the basic health care services listed in subdivision (1) of this section to enrolled participants on a predetermined periodic rate basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(3) Provides physicians' services primarily (a) directly through physicians who are either employees, ~~or~~ partners, or members of such organization or (b) through arrangements with individual physicians or one or more groups of physicians, organized on a group practice or individual practice basis.

Sec. 445. That section 71-5822, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5822. Person shall mean an individual, a trust or estate, a partnership, a limited liability company, a corporation, including associations, joint-stock companies, and insurance companies, a state, a political subdivision or instrumentality, including a municipal corporation, of a state, or any legal entity recognized by the state.

Sec. 446. That section 71-5830, Revised Statutes Supplement, 1992, be amended to read as follows:

71-5830. No person, including persons acting for or on

behalf of a health care facility, shall engage in any of the following activities without having first applied for and received the necessary certificate of need:

(1) The development, construction, acquisition, lease, or other establishment of a health care facility, including purchasing or obtaining controlling interest in the stock of a health care facility by any means. For the purposes of this section, controlling interest shall mean a majority of the voting rights of the shares of stock entitled to vote. The proposed lease, acquisition, or purchase of an existing health care facility shall be subject to this subdivision unless:

(a) The acquisition of the facility occurs at a judicial sale pursuant to foreclosure of the facility for collection of a debt secured by the facility or a lien on the facility arising by the operation of law or a subsequent sale or lease of the facility by the secured lender or lienholder who has purchased the facility at a judicial sale;

(b) The acquisition of the facility is a transfer of ownership occurring by reason of the death of the owner or part owner thereof and the transferees are the owner's heirs, are persons designated in the owner's probated will or trust agreement, or are joint tenants with the owner on the title instrument;

(c) The facility to be acquired, leased, or purchased has not received federal or state reimbursement for one year or more prior to the date of such acquisition, lease, or purchase and the transfer will not result in any increased reimbursement for capital costs by any governmental reimbursement or health care insurance program; or

(d) The acquisition of the facility is a transfer to the spouse or lineal descendants of the owner or controlling shareholder or to a corporation, general partnership, ~~or~~ limited partnership, or limited liability company directly or indirectly controlled by the owner or his or her spouse or lineal descendants, or any combination of such individuals and the transfer will not result in any increased reimbursement for capital costs by any governmental reimbursement or health care insurance program.

An application for certificate of need pursuant to this subdivision shall be denied whenever the approval of such development, construction, acquisition, lease, or other establishment would result in any person, corporation, partnership, limited liability company, or holding company owning or having controlling interest in health care facilities which (i) account for twenty percent or more of the total patient discharges in the state for all hospitals with an average length of stay of less than thirty days or (ii) account for twenty percent or more of the total licensed beds in the state for all freestanding skilled nursing, intermediate care, and nursing facilities;

(2) Offering a new institutional health service which will entail operating expenditures for the twelve-month period immediately following initiation of the new service in excess of the annual operating expenditure minimum;

(3) Entering into any obligation for any capital expenditure

in excess of the base amount of seven hundred fifty thousand dollars, together with any adjustment made by the department by or on behalf of a health care facility which results in a substantial change to an institutional health service. On October 1 of each year, the department shall adjust the base amount by an amount equal to the percentage change in the Department of Commerce Composite Construction Cost Index from October 1, 1989, through the period most recently reported;

(4) Any change in the bed capacity of a health care facility which increases the total number of beds, redistributes beds among various categories, converts any type of hospital beds which may be licensed pursuant to sections 71-2017 to 71-2029 to skilled nursing or intermediate care beds or any combination of such beds, or relocates beds from one physical facility or site to another if the bed capacity of the facility will have changed by more than ten beds or more than ten percent of total bed capacity, whichever is less, over a two-year period. For purposes of this subdivision, redistributions, conversions, or relocations of beds for residential care, domiciliary care, or swing beds shall not be included in the computation of bed capacity changes. Swing beds shall mean beds which may be used for acute or long-term care in a facility (a) located in an area which is not designated as urban by the United States Bureau of Census and (b) with up to one hundred beds, excluding beds for newborns and intensive-care-type inpatient units;

(5) Any change by a residential care facility that converts residential care beds to skilled nursing beds or intermediate care beds or any combination of such beds;

(6) Any change by a domiciliary facility that converts domiciliary beds to skilled nursing beds or intermediate care beds or any combination of such beds;

(7) Any capital expenditure or obligation incurred by or on behalf of a health care facility in excess of the capital expenditure minimum made:

(a) In preparation for the offering or developing of a new institutional health service, in preparation for initiating a substantial change in an existing health service, or in any arrangement or commitment made for financing the offering or development of such new or substantially changed health service. Expenditures in preparation for the offering of a new institutional health service shall include expenditures for architectural designs, plans, working drawings, and specifications but shall not include expenditures for preliminary plans, studies, and surveys or site acquisition;

(b) For the purchase, acquisition, or lease of clinical, diagnostic, treatment, or therapeutic equipment; or

(c) For the acquisition of a capital asset other than a health care facility as described in subdivision (1) of this section. For the purpose of this subdivision, capital asset shall mean any property which will be depreciated for a period exceeding twelve months using generally accepted accounting procedures; or

(8) Any capital expenditure by a health care facility over

the capital expenditure minimum not covered by subdivisions (1) through (7) of this section.

Sec. 447. That section 71-5831, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5831. The Nebraska Health Care Certificate of Need Act shall not apply to health maintenance organization ambulatory care facilities or to the offices operated solely as part of the private medical practice of an independent practitioner, partnership, limited liability company, or professional corporation except for acquisitions of clinical equipment which costs more than nine hundred thousand dollars, if purchased, and which is to be used to provide services to inpatients of a hospital on more than a temporary basis in the event of a natural disaster, major accident, or equipment failure. No person shall engage in the purchase, acquisition, or lease of clinical equipment in excess of a base amount of nine hundred thousand dollars as adjusted under this section, if purchased, and which would be located in the State of Nebraska, without having first applied for and received the necessary certificate of need. Notwithstanding any exemption provided by this section, no person shall acquire any clinical equipment which costs more than a base amount of nine hundred thousand dollars as adjusted under this section, if purchased, without having first provided thirty days' written notice to the department. The notice shall describe the equipment, state its cost and proposed location, and state whether the equipment will be used to provide services to hospital inpatients on more than an occasional and irregular basis. Failure to provide such notice shall require such person to apply for and receive a certificate of need. On October 1 of each year, the department shall adjust the base amount by an amount equal to the percentage change in the Department of Commerce Composite Construction Cost Index from October 1, 1989, through the period most recently reported.

Sec. 448. That section 71-5903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5903. Applicants for license shall file applications under oath with the Department of Health upon forms prescribed and shall pay a license fee of twenty-five dollars as a base fee and in addition thereto, a fee of one dollar for each bed available for guests thereof, except that the total fee for beds available shall not exceed one hundred dollars. Such fee shall be ~~paid into the state treasury and by~~ remitted to the State Treasurer ~~credited for credit~~ to the General Fund; or if the license is denied, that part of the fees paid for beds available shall be returned to the applicant. Applications shall be signed (1) by the owner, if an individual or partnership, (2) by two of its members, if a limited liability company, (3) by two of its officers, if a corporation, or ~~(3) (4)~~ (4) by the head of the governmental department having jurisdiction over it, if a governmental unit. Applications shall set forth the full name and address of the boarding home for which license is sought, and of the owner in case of different address, the names of the persons in control thereof, and such additional information as the Department of Health may require,

including affirmative evidence of ability to comply with such reasonable standards, rules, and regulations as may be lawfully prescribed hereunder.

Sec. 449. That section 71-5908, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5908. Any person, partnership, limited liability company, association, or corporation (1) establishing, conducting, managing, or operating any institution within the meaning of sections 71-5901 to 71-5909 without first obtaining a license therefor as herein provided; or (2) violating any of the provisions of such sections ~~71-5901 to 71-5909~~ or regulations lawfully promulgated thereunder; shall be guilty of a Class IV misdemeanor, and each day such facility as defined in section 71-5901 ~~shall operate~~ operates after a first conviction shall be considered a separate offense.

Sec. 450. That section 71-5909, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-5909. The Department of Health may, in accordance with the laws of the state governing injunctions and other process, maintain an action in the name of the state against any person, partnership, limited liability company, association, or corporation; or against any state, county, or local governmental unit, or any division, department, board, or agency thereof, for establishing, conducting, managing, or operating any ~~hospital or related institution~~ boarding home within the meaning of section 71-5901 without first having a license therefor as herein provided. In charging any defendant in a complaint in such action, it shall be sufficient to charge that such defendant did, upon a certain day and in a certain county, establish, conduct, manage, or operate a ~~hospital or related institution~~ boarding home without having a license to do so without averring any further or more particular facts concerning the same.

Sec. 451. That section 71-6103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6103. As used in the Occupational Therapy Practice Act, unless the context otherwise requires:

(1) Board shall mean the Board of Occupational Therapy Practice established by section 71-6115;

(2) Occupational therapy shall mean the use of purposeful activity with individuals who are limited by physical injury or illness, psychosocial dysfunction, developmental or learning disabilities, or the aging process in order to maximize independence, prevent disability, and maintain health. Occupational therapy shall encompass evaluation, treatment, and consultation. Occupational therapy may include teaching daily living skills, developing perceptual-motor skills and sensory integrative functioning, developing prevocational capacities, designing, fabricating, or applying selected orthotic and prosthetic devices or selective adaptive equipment, using specifically designed therapeutic media and exercises to enhance functional performance, administering and interpreting tests such as manual muscle and range of motion, and adapting environments for the handicapped;

(3) Occupational therapist shall mean a person licensed to practice occupational therapy pursuant to the Occupational Therapy Practice Act and whose license is in good standing;

(4) Occupational therapy assistant shall mean a person licensed to assist in the practice of occupational therapy under the supervision of or in consultation with an occupational therapist and whose license is in good standing;

(5) Occupational therapy aide shall mean a person who assists in the practice of occupational therapy, who works under the supervision of an occupational therapist, and whose activities require an understanding of occupational therapy but shall not require professional or advanced training or licensure;

(6) Person shall mean any individual, partnership, limited liability company, unincorporated organization, or corporate body;

(7) Association shall mean a recognized national or state association for occupational therapy; and

(8) Department shall mean the Department of Health.

Sec. 452. That section 71-6106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6106. (1) An applicant applying for a license as an occupational therapist shall file a written application in the manner and on forms provided by the department, showing to the satisfaction of the department that he or she:

(a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

(b) Has successfully completed a period of supervised fieldwork experience at an educational institution approved by the department and where the applicant's academic work was completed or which is part of a training program approved by such educational institution. A minimum of six months of supervised fieldwork experience shall be required for an occupational therapist; and

(c) Has passed an examination as provided in section 71-6108.

Residency in this state shall not be a requirement of licensure. A corporation, partnership, limited liability company, or association shall not be licensed as an occupational therapist pursuant to the Occupational Therapy Practice Act.

(2) If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

(b) Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

Sec. 453. That section 71-6107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6107. (1) An applicant applying for a license as an occupational therapy assistant shall file a written application in the manner and on forms provided by the department, showing to the satisfaction of the department that he or she:

(a) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the department and accredited by a nationally recognized medical association or nationally recognized occupational therapy association;

(b) Has successfully completed a period of supervised fieldwork experience at an educational institution approved by the department and where the applicant's academic work was completed or which is part of a training program approved by such educational institution. A minimum of two months of supervised fieldwork experience shall be required for an occupational therapy assistant; and

(c) Has passed an examination as provided in section 71-6108.

Residency in this state shall not be a requirement of licensure as an occupational therapy assistant. A corporation, partnership, limited liability company, or association shall not be licensed pursuant to the Occupational Therapy Practice Act.

(2) If an applicant for an initial license files an application for licensure within ninety days prior to the biennial renewal date of the license, the applicant may either:

(a) Request that the department delay the processing of the application and the issuance of the license until the biennial renewal date and pay only the fee for initial licensure; or

(b) Request that a license which will be valid until the next subsequent renewal date be issued immediately and pay the fee for initial licensure and an additional fee of one-fourth of the biennial fee.

Sec. 454. That section 71-6301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-6301. For purposes of the Asbestos Control Act, unless the context otherwise requires:

(1) Asbestos shall mean asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite;

(2) Asbestos encapsulation project shall mean activities which include the coating of asbestos-containing surface material with a bridging or penetrating type of sealing material for the intended purpose of preventing the continued release of asbestos fibers from the material into the air. Such project shall not include the repainting of a previously painted nonfriable asbestos-containing surface which is not damaged primarily for improving the appearance of such surface;

(3) Asbestos occupation shall mean an inspector, management planner, project designer, supervisor, or worker;

(4) Asbestos project shall mean an asbestos encapsulation project, an asbestos removal project, an asbestos-related demolition

project, or an asbestos-related dismantling project but shall not include (a) any activities which affect three square feet or less or three linear feet or less of asbestos-containing material on or in a structure or equipment or any appurtenances thereto or (b) any activities physically performed by a homeowner, a member of the homeowner's family, or an unpaid volunteer on or in the homeowner's residential property of four units or less;

(5) Asbestos removal project shall mean activities which include the physical removal or enclosure of friable asbestos-containing material from the surface of a structure or from equipment which is intended to remain in place after the removal or enclosure. Such project shall also include the physical removal of asbestos from a structure or equipment after such structure or equipment has been removed as part of an asbestos-related dismantling project;

(6) Asbestos-related demolition project shall mean activities which include the razing of all or a portion of a structure which contains friable asbestos-containing materials or other asbestos-containing materials which may become friable when such materials are cut, crushed, or broken;

(7) Asbestos-related dismantling project shall mean activities which include the disassembly, handling, and moving of the components of any structure or equipment which has been coated with asbestos-containing material without first removing such material from the structure or from the equipment;

(8) Business entity shall mean a partnership, limited liability company, firm, association, corporation, sole proprietorship, public entity, or other public or private business concern involved in an asbestos project except an entity solely involved as a management planner or project designer;

(9) Certificate shall mean an authorization issued by the department permitting an individual person to work in an asbestos occupation;

(10) Department shall mean the Department of Health;

(11) Director shall mean the Director of Health or his or her designee;

(12) Enclosure shall mean the construction of an airtight, impermeable, permanent barrier around asbestos-containing material to control the release of asbestos fibers into the air;

(13) Friable asbestos shall mean asbestos in a form which can be crumbled, pulverized, or reduced to powder by hand pressure;

(14) Inspector shall mean an individual who is certified by the department to identify and assess the condition of asbestos-containing material;

(15) License shall mean an authorization issued by the department permitting a business entity to engage in an asbestos project;

(16) Management planner shall mean an individual who is certified by the department to assess the hazard of materials containing asbestos, to determine the appropriate response actions, and to write management plans;

(17) Project designer shall mean an individual who is certified by the department to formulate plans and write specifications for conducting asbestos projects;

(18) Project review shall mean review of a licensed business entity's proposed asbestos project;

(19) Supervisor shall mean an individual who is certified by the department to supervise and direct an asbestos project in accordance with the Asbestos Control Act and the rules and regulations adopted and promulgated pursuant to such act; and

(20) Worker shall mean an individual who is certified by the department to clean, handle, repair, remove, encapsulate, haul, dispose of, or otherwise work with asbestos material in a nonsupervisory capacity.

Sec. 455. That section 71-7303, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7303. For purposes of the First Responders Emergency Rescue Act:

(1) Automatic defibrillator shall have the definition found in section 71-5102;

(2) Basic life support shall mean those acts ordinarily performed after training by emergency medical technicians, including cardiopulmonary resuscitation and the use of oxygen, syrup of ipecac, pharyngeal airways, and pneumatic antishock garments, and not specifically preempted and separately licensed under the Emergency Medical Technician-Paramedic Act. Automatic and semiautomatic defibrillation under the licensing and certification procedures in rules and regulations adopted and promulgated by the department can also be done by basic life support personnel;

(3) Board shall mean the Board of Ambulance Advisors;

(4) Defibrillation shall have the definition found in section 71-5102;

(5) Department shall mean the Department of Health;

(6) Division shall mean the Division of Emergency Medical Services of the department;

(7) First responder shall mean a person certified by the department pursuant to section 71-7304 to locate and provide initial basic life support to patients at the scene of an emergency;

(8) First responder-A/D shall have the definition found in section 71-5102;

(9) First responder service shall mean any privately owned or publicly owned organizational entity the members of which are trained at the first responder level or higher to provide prehospital emergency care to patients at the scene of an emergency;

(10) First responder-A/D service shall have the definition found in section 71-5102;

(11) Patient shall mean an individual who is sick, injured, wounded, or otherwise helpless or incapacitated;

(12) Person shall mean an individual, firm, partnership, limited liability company, corporation, company, association, joint-stock

company or association, political subdivision, governmental agency, or other legal entity and shall include any trustee, receiver, assignee, or other legal representative thereof but shall not include any agency of the United States Government;

(13) Primary response service area shall mean the primary geographic area which a first responder service serves; and

(14) Semiautomatic defibrillator shall have the definition found in section 71-5102.

Sec. 456. That section 71-7414, Revised Statutes Supplement, 1992, be amended to read as follows:

71-7414. The Wholesale Drug Distributor Licensing Act shall apply to any person, partnership, limited liability company, corporation, or business firm engaging in wholesale drug distribution.

Sec. 457. That section 72-232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-232. All unsold lands shall be subject to lease at an annual rental of four percent on the appraised rental value. Whenever ; ~~PROVIDED, that whenever the four percent~~ four-percent rental is adopted, the unsold lands shall be appraised in accordance with section 72-205, the rental value to be determined by the Board of Educational Lands and Funds. The Board of Educational Lands and Funds shall have authority to adopt such rules and regulations as it shall deem necessary in the leasing of such lands and to prescribe such terms and conditions of the lease, not inconsistent with sections 72-205, 72-232 to 72-235, 72-240.02 to 72-240.05, and 72-242, as it shall deem necessary to protect the interests of the state and of the trust. The board shall adopt and enforce a soil conservation program. Failure of the lessee to utilize the land for the purpose for which the land was leased or to observe and carry out soil conservation requirements as provided in the rules and regulations of the board shall be cause for cancellation of the lease. No individual, partnership, limited liability company, or corporation shall be entitled to hold under lease a total of more than six hundred forty acres of state educational lands, whether ~~the same be~~ acquired by direct lease or by assignment. Such ; ~~PROVIDED, said~~ limitation shall not apply ~~where~~ when the land to be leased is bounded entirely on one side thereof by lands owned or operated by such applicant or assignee.

Sec. 458. That section 72-233, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-233. Applications to lease any such lands shall be made to the Board of Educational Lands and Funds. Each such application shall contain an affidavit that the applicant desires to lease and operate such land for the applicant's own use and benefit; and that the applicant will not sublease or otherwise dispose of the same without the written approval of the board; and will commit no waste or damage on the land nor permit others to do so. Each application shall be accompanied by the amount due as rental for the first year for which the application is made. The Board of Educational Lands and Funds may, at least once in each year, designate a day and hour for offering, in a public manner at the

office of the county treasurer in the respective counties, lease contracts on all the educational lands in each respective county which may be subject to lease at the time of such offering. ~~Said~~ The offering shall be announced in a public manner by publishing a notice thereof three weeks preceding ~~said~~ the auction in one or more of the legal newspapers published or of general circulation in the county in which ~~said~~ the unleased land is located. If, after due diligence and effort to lease ~~said~~ the land at an annual rental of four percent upon the appraised valuation, the board is unable to lease part or all of the same, it may offer the unleased land for lease at less than the appraised valuation and lease it to the person or persons, partnership, limited liability company, or corporation that will pay an annual rental of four percent on the highest offer valuation if, in the judgment of the board, it is for the best interest of the state to accept such bid, but the board may reject the same and pass ~~said~~ the land without leasing at ~~said~~ the auction. Such valuation, so determined, shall be considered the appraisal of ~~said~~ the land for leasing purposes until the same is reappraised, as provided by law, and shall be entered as such upon the records of the county treasurer and the Board of Educational Lands and Funds. ~~If the~~ PROVIDED, if the ~~said~~ board is unable to have a representative attend the offering, the county treasurer may, upon the direction of ~~said~~ the board, act for it, Adjournments ~~AND PROVIDED FURTHER, adjournments~~ may be taken from day to day until all of ~~said~~ the lands have been offered. No lease shall be sublet or assigned without the written approval of the board.

Sec. 459. That section 72-902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-902. All oil and gas leases issued hereunder shall be for terms not to exceed ten years, and as long thereafter as oil or gas is produced in paying quantities from the land covered thereby. Such leases shall also provide for annual delay rentals of not less than fifty cents per acre of land leased. If two or more parties desire to lease the same land, the representatives of the Board of Educational Lands and Funds present at the offering shall accept bids from all or any parties, and the board may grant a lease to the person, partnership, limited liability company, or corporation that would pay for a lease contract on the land the greatest amount of such bonus. Lands shall be leased in as compact bodies as the form and area of the tracts subject to lease will permit. No lease shall embrace noncontiguous subdivisions of land unless such subdivision shall be within an area comprising not more than one square mile.

Sec. 460. That section 72-1103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1103. For the purposes of sections 72-1101 to 72-1119, unless the context otherwise requires:

(1) Nonambulatory disabilities shall mean impairments that, regardless of cause or manifestation, for all practical purposes, confine individuals to wheelchairs;

(2) Semiambulatory disabilities shall mean impairments that cause individuals to walk with difficulty or insecurity. Individuals

using braces or crutches, amputees, arthritics, spastics, and those with pulmonary and cardiac ills may be semiambulatory;

(3) Sight disabilities shall mean total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to danger;

(4) Hearing disabilities shall mean deafness or hearing handicaps that might make an individual insecure in public areas because he or she is unable to communicate or hear warning signals;

(5) Disabilities of incoordination shall mean faulty coordination or palsy from brain, spinal, or peripheral nerve injury;

(6) Aging shall mean those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination, and perceptiveness but are not accounted for in the aforementioned categories;

(7) Standard, when this term appears in small letters, shall be descriptive and shall mean typical;

(8) Fixed turning radius, wheel to wheel, shall mean the tracking of the caster wheels and large wheels of a wheelchair when pivoting on a spot;

(9) Fixed turning radius, front structure to rear structure, shall mean the turning radius of a wheelchair, left front-foot platforms to right rear wheel, or right front-foot platform to left rear wheel when pivoting on a spot;

(10) Ramps with gradients shall mean ramps with gradients; or ramps with slopes; that deviate from what would otherwise be considered the normal level. An exterior ramp, as distinguished from a walk, shall be considered an appendage to a building leading to a level above or below existing ground level. As such, a ramp shall meet certain requirements similar to those imposed upon stairs;

(11) Walk shall mean a predetermined, prepared-surface, exterior pathway leading to or from a building or a facility, or from one exterior area to another, placed on the existing ground level and not deviating from the level of the existing ground immediately adjacent;

(12) Appropriate number shall mean the number of a specific item that would be reasonably necessary, in accord with the purpose and function of a building or a facility, to accommodate individuals with specific disabilities in proportion to the anticipated number of individuals with disabilities who would use a particular building or facility;

(13) Business invitee shall mean any person who enters any premises where business is normally transacted upon the express or implied invitation or with the express or implied consent of the owner, occupant, or possessor;

(14) Person shall mean any individual, firm, partnership, limited liability company, agency, association, corporation, company, society, or ~~any~~ other legal entity; and

(15) Remodeled space shall mean all newly remodeled space so designed under ~~the provisions of~~ such sections, ~~72-1101 to 72-1119~~. When remodeling projects require expenditures exceeding fifty

percent of replacement value of the structure, as determined by a licensed evaluator, the total structure shall comply with ~~the provisions of such sections, 72-1101 to 72-1119.~~

Sec. 461. That section 72-1702, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

72-1702. For purposes of the Nebraska Small Business Incubator Act:

(1) Business incubation center shall mean a facility in which units of space may be leased by a tenant and in which a tenant has access to business development services as described in section 72-1712;

(2) Community board shall mean a board created pursuant to section 72-1704;

(3) Public agency shall mean a state agency or commission or a political subdivision which retains ownership or control of one or more public buildings; and

(4) Tenant shall mean a sole proprietorship, business partnership, limited liability company, or corporation operating a business for profit and leasing or otherwise occupying space in a business incubation center.

Sec. 462. That section 73-101.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

73-101.01. When a public contract is to be awarded to the lowest responsible bidder, a resident bidder shall be allowed a preference over a nonresident bidder from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidder. Resident bidder as used in sections 73-101.01 and 73-101.02 shall mean any person, partnership, foreign or domestic limited liability company, association, or foreign or domestic corporation authorized to engage in business in the State of Nebraska and ~~who shall have~~ which has met the residency requirement of the state of the nonresident bidder; necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced; or ~~shall have~~ has had a bona fide establishment for doing business within this state for the length of time established by the state of the nonresident bidder; necessary for receiving the benefit of that state's preference law on the date when any bid for a public contract is first advertised or announced. Any contract entered into without compliance with ~~the provisions of~~ sections 73-101.01 and 73-101.02 shall be null and void.

Sec. 463. That section 75-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-201. Any person, firm, ~~or partnership~~ partnership, limited liability company, corporation, company, or association, ~~who~~ which undertakes to transport passengers or property for the general public in intrastate commerce by any airborne vehicle is hereby declared to be a common carrier and subject to commission regulation.

Sec. 464. That section 75-302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-302. For purposes of sections 75-301 to 75-322.04 and in all rules and regulations prescribed by the commission pursuant thereto, unless the context otherwise requires:

(1) Person shall mean any individual, firm, partnership, limited liability company, corporation, company, association, or joint-stock association and shall include any trustee, receiver, assignee, or personal representative thereof;

(2) Commission shall mean the Public Service Commission;

(3) Certificate shall mean a certificate of public convenience and necessity issued under Chapter 75, article 3, to common carriers by motor vehicle;

(4) Permit shall mean a permit issued under Chapter 75, article 3, to contract carriers by motor vehicle;

(5) Intrastate commerce shall mean commerce between any place in this state and any other place in this state and not in part through any other state;

(6) Highway shall mean the roads, highways, streets, and ways in this state. Any way or means of egress or ingress used by motor dump trucks engaged in construction work shall be construed as a highway for purposes of sections 75-301 to 75-322.04;

(7) Motor vehicle shall mean any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property but shall not include any vehicle, locomotive, or car operated exclusively on a rail or rails;

(8) Motor carrier shall mean any person who or which owns, controls, manages, operates, or causes to be operated any motor vehicle used to transport passengers or property over any public highway in this state;

(9) Private carrier shall mean any motor carrier which owns, controls, manages, operates, or causes to be operated a motor vehicle to transport passengers or property to or from its facility, plant, or place of business or to deliver to purchasers its products, supplies, or raw materials (a) when such transportation is within the scope of and furthers a primary business of the carrier other than transportation and (b) when not for hire. Nothing in sections 75-301 to 75-322.04 shall apply to private carriers except section 75-307 as it applies to private carriers;

(10) Common carrier shall mean any person who or which undertakes to transport passengers or property for the general public in intrastate commerce by motor vehicle for hire, whether over regular or irregular routes, upon the highways of this state;

(11) Contract carrier shall mean any motor carrier which transports passengers or property for hire other than as a common carrier, except that any contract carrier which provides for hire transportation services on or before January 1, 1972, designed to meet the distinct needs of each individual customer or a specifically designated class of customers shall not have any limitation as to the number of customers it can serve within the class; and

(12) Civil penalty shall mean any monetary penalty assessed by the commission due to a violation of Chapter 75, article 3, or section 75-126 as such section applies to any person or carrier specified in Chapter 75, article 3, any term, condition, or limitation of any certificate or permit issued pursuant to Chapter 75, article 3, or any rule, regulation, or order of the commission issued pursuant to Chapter 75, article 3.

Sec. 465. That section 75-320, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-320. No transfer, assignment, or sale of stock or change of stock ownership or any interest therein which will directly or indirectly result in a transfer, assignment, sale, or change in the control of the corporation holding a certificate or permit, and no change of one or more of the partners, ~~where~~ or members, when the certificate holder is a partnership or a limited liability company, will be effective or valid, unless the carrier or ~~carriers~~, person ~~or persons~~, seeking to acquire control of the corporation; or unless the applicant seeking to effect a change in one or more of the partners or members in a partnership or limited liability company holding a certificate or permit, respectively, obtains approval of the commission under such rules and regulations as the commission may prescribe. Approval of the proposed transaction, either in whole or in part, may be given, after notice and hearing, only upon findings by the commission that such transaction will be consistent with the public interest, that it will not unduly restrict competition, and that the applicant is fit, willing, and able to properly perform the proposed service.

Sec. 466. That section 75-323, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-323. As used in sections 75-323 to 75-335, unless the context otherwise requires:

(1) Itinerant merchant shall mean every person, firm, partnership, limited liability company, corporation, association, receiver, or trustee buying for the purpose of sale in any form or selling or offering to buy for the purpose of sale in any form or to sell in this state, at wholesale or retail, any goods, wares, merchandise, or chattels of any description and transporting the same by the use, upon any public highway, of a motor truck or trucks or any other vehicle or vehicles except as otherwise provided in this section. The term does not include those engaged in the business of transporting property by motor vehicle for hire or operating vehicles in such business as agents, employees, lessees, or contractors; and who do not act on the cargo transported, or interest therein, and who do not act for any party in the acquiring, purchase, sale, or disposition of the cargo transported;

(2) Itinerant merchant shall not mean or include, and there shall be exempt from ~~the provisions of~~ sections 75-323 to 75-335 (a) those using such vehicles for the transportation of grain, fruits, vegetables, hay, livestock, or other agricultural products produced by them; (b) those transporting products or property when such transportation is incident to a business conducted by them at an established place of business operated by them either within or without this state, and when the property is being

transported to and from the established place of business, and when the entire course of such transportation extends not more than two hundred fifty miles from the established place of business, ~~except~~ ~~;~~ ~~PROVIDED,~~ that when the entire course of the transportation is for the purpose of delivery of the property subsequent to sale thereof, the two-hundred-fifty-mile restriction shall not apply; (c) those using such vehicles for the transportation, sale, and delivery at retail of any particular group of products having a common trademark, trade name, or brand, as agents, employees, or retail dealers of the manufacturers or wholesale distributors of such products through whom they market the same; (d) those having the purpose of hauling products for the use of the owner of such vehicle, or for the use of others where no charge is made for the use of such vehicle, or those using vehicles in the exchange of work; (e) those using such vehicles exclusively within the limits of a city or village in this state and who are bona fide residents thereof; and (f) those using such vehicles for the transportation of livestock bought or sold at any livestock market;

(3) The provisions of this section shall not apply to grain;

and

(4) Applicant shall mean the person, firm, partnership, limited liability company, corporation, association, receiver, or trustee making the application but also includes, where the context so indicates, the applicant who has secured a license as an itinerant merchant authorized under sections 75-323 to 75-335.

Sec. 467. That section 75-325, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-325. No itinerant merchant shall engage in business as such without (1) complying with sections 75-323 to 75-335, (2) applying for and procuring from the commission an itinerant merchant's license as provided for in this section, (3) obtaining a sales tax permit as required by section 77-2705, and (4) paying any occupation tax required pursuant to section 75-334. Every person, partnership, limited liability company, firm, or corporation desiring to engage in business as an itinerant merchant shall, before engaging in such business, make an application to the commission for an itinerant merchant's license. Such application shall be in the form prescribed by the commission and as prescribed in this section. All applications shall set forth the name and address of the applicant, his or her post office or residence address, an exact description of the vehicle or vehicles to be used in the conduct of his or her business, and such other information as may be prescribed by the commission.

Sec. 468. That section 75-604, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-604. (1) Except as provided in section 86-805, no person, firm, partnership, limited liability company, corporation, cooperative, or association shall offer any telecommunications service or shall construct new telecommunications facilities in or extend existing telecommunications facilities into the territory of another telecommunications company for the purpose of providing any

telecommunications service without first making an application for and receiving from the commission a certificate of convenience and necessity, after due notice and hearing under the rules and regulations of the commission. Before granting a certificate of convenience and necessity, the commission shall find that: (a) The territory in which the applicant proposes to offer telecommunications service is not receiving reasonably adequate telecommunications service; (b) the portion of the territory of another telecommunications company in which or into which the applicant proposes to construct new facilities or extend its existing facilities is not and will not within a reasonable time receive reasonably adequate telecommunications service from the telecommunications company already serving the territory; or (c) the application is agreeable to the subscriber or subscribers and to all telecommunications companies involved in the matter, will not create a duplication of facilities, and is in the interest of the public and the party or parties requiring telecommunications service.

(2) ~~Two years after January 1, 1987, the~~ The commission may waive applicability of subsection (1) of this section as to the provision of intra-LATA interexchange services by duly adopted and promulgated rules and regulations applicable to all telecommunications companies providing such services, and after such waiver, certification for and provision of intra-LATA interexchange services shall be governed by the statutes, rules, and regulations for certification for and provision of inter-LATA interexchange services.

Sec. 469. That section 75-605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-605. Any person, firm, partnership, limited liability company, corporation, cooperative, association, or mutual company operating an exchange offering telephone service in Nebraska shall file with the commission maps of the territory in Nebraska in which it is offering local exchange telephone service and shall file amended maps from time to time to continuously keep current the information shown on such maps. The style, size, and kind of maps, together with the information to be shown on such maps, shall be as required by rules and regulations to be prescribed by the commission for necessary administration of the commission's functions pertaining to telephone service. Such rules and regulations shall indicate the time and place for filing such maps and shall require that such maps be kept current.

Sec. 470. That section 75-606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-606. The commission may revoke or suspend the certificate of convenience of any violator of ~~the provisions of~~ section 75-605 and any person, firm, partnership, limited liability company, corporation, cooperative, association, or mutual company violating ~~the provisions of~~ such section 75-605 shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than ten dollars nor more than one hundred dollars, ~~or~~ by imprisonment for not less than thirty days nor more than six months, or by both such fine and imprisonment. The commission shall enforce ~~the provisions of~~ sections

75-605 and 75-606 and it shall be the duty of the Attorney General, or of any county attorney, upon request of the commission, to assist in the prosecution of any violations of section 75-605.

Sec. 471. That section 75-612, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-612. Any one or more individuals, firms, partnerships, limited liability companies, corporations, cooperatives, or associations may file an application with the Public Service Commission to obtain the telephone service furnished in the exchange service area adjacent to the territory in which the applicant or applicants reside or operate. The commission shall serve upon each telephone company directly affected a copy of the application and written notice of the hearing at least thirty days prior to the hearing on the application, which shall be held if all of the telephone companies involved do not consent to the application.

Sec. 472. That section 75-713, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-713. Any public utility, public power district, or other governmental subdivision or any person, corporation, ~~or partnership, or~~ limited liability company in the State of Nebraska; before engaging in the construction or alteration of any overhead wire, cable, or pipeline, the height of which is greater than five feet above the elevation of an airport which has been approved and licensed by the Department of Aeronautics, for each five hundred feet of the distance that such construction is or will be situated from the nearest boundary of such airport, shall file with the commission, an original application for permission to enter upon and complete such construction or alteration, and shall also file a copy thereof with the Department of Aeronautics. ~~No~~ ~~;~~ ~~PROVIDED, that no~~ application need be made where such construction or alteration is within the corporate limits of a city or village and is adjacent to other structures of a permanent character which are of equal or greater height than the construction or alteration proposed. No such overhead wire, cable, or pipeline for which application must be filed under ~~the provisions of~~ sections 75-713 to 75-717 shall be constructed or altered without specific permission granted by order of the commission.

Sec. 473. That section 75-721, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-721. The commission shall have full power and authority to prohibit the construction of any line or lines found to be in violation of the terms of section 75-709. After the hearing provided for in section 75-711, it shall make such order and prescribe such terms and conditions for the location, construction, and operation of the proposed line or lines as it may deem just and reasonable. It may make such orders in the premises as in its judgment would best protect the rights of all parties interested and those of the general public. It is hereby made unlawful for any person, partnership, limited liability company, company, association, or corporation, not specifically exempt, to begin or carry on the construction of any line or lines designed to carry electric current for which application is required under section 75-710 or to increase the

voltage of any existing line which would require such application without having first secured the necessary authority from the commission as set forth in section 75-710.

Sec. 474. That section 75-723, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-723. Any person, partnership, limited liability company, company, association, or corporation who shall violate any of the provisions of sections 75-709 to 75-724; shall be guilty of a Class II misdemeanor.

Sec. 475. That section 75-909, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

75-909. Any person or partner, member, officer, or agent of any person who knowingly and intentionally violates any of the provisions of the Grain Dealer Act shall be guilty of a Class IV felony and, in addition, shall be liable for any damages suffered as a result of such violation.

Sec. 476. That section 76-537, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-537. As used in the Abstracters Act, unless the context otherwise requires:

(1) Abstract of title shall mean a compilation in orderly arrangement of the materials and facts of record affecting the title to a specific piece of land, issued under a certificate certifying to the matters contained in such compilation;

(2) Board shall mean the Abstracters Board of Examiners;

(3) Business of abstracting shall mean the making, compiling, and selling of abstracts of title or any part thereof or preparing written reports of title to real property;

(4) Business entity shall mean a partnership, limited liability company, corporation, or other organizational form developed to conduct business;

(5) Certificate of authority shall mean the authorization to engage in the business of abstracting in a county in the State of Nebraska granted to an individual or business entity;

(6) Certificate of registration shall mean the authorization to prepare abstracts of title to real property in any county within the State of Nebraska which is granted to an individual under section 76-543;

(7) Professional development shall mean a course of educational instruction, including correspondence courses, designed to maintain and improve the ability of registered abstracters to provide services to the public;

(8) Registered abstracter shall mean an individual, registered under the Abstracters Act, holding an operative certificate of registration who for a fee or other valuable consideration compiles or certifies abstracts of title or any part thereof to real property in any county within this state or who prepares reports of title; and

(9) Report of title shall mean any type of summary of facts of record affecting the title to a specific piece of land which does not

purport to constitute an opinion as to the state of the title and which is prepared by a person other than an attorney licensed to practice law in the State of Nebraska. Report of title shall not include a title insurance commitment or policy or information or opinions given by a register of deeds in response to inquiries from the public.

Sec. 477. That section 76-538, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-538. Any person, firm, partnership, limited liability company, association, or corporation engaged in the business of abstracting shall be required to be licensed as required by the Abstracters Act.

Sec. 478. That section 76-701, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-701. As used in sections 76-701 to 76-724, unless the context otherwise requires:

(1) Condemner means any legal entity that by law has been granted the right to exercise the power of eminent domain, and includes the state and any governmental or political subdivision thereof; ;

(2) Condemnee means any person, partnership, limited liability company, corporation, or association; owning or having an encumbrance on any interest in property that is sought to be acquired by a condemner; or in possession of or occupying any such property; ;

(3) Property means any such interest in real or personal property as the condemner is empowered by law to acquire for public use; and ;

(4) County judge means the county judge of the county where condemnation proceedings provided by sections 76-701 to 76-724 are had.

Sec. 479. That section 76-802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~76-802. As used in sections 76-801 to 76-823~~ For purposes of the Condominium Property Act, unless the context otherwise requires:

(1) Condominium property regime shall mean a project whereby four or more apartments are separately offered or proposed to be offered for sale;

(2) Apartment shall mean an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare;

(3) Co-owner shall mean a person, firm, corporation, partnership, limited liability company, association, trust, or other legal entity, or any combination thereof, ~~who~~ which owns an apartment within the building;

(4) Association of co-owners shall mean all the co-owners as defined in subdivision (3) of this section, ; but a majority; as defined

in subdivision (8) of this section; shall, except as otherwise provided in sections 76-801 to 76-823 the act, constitute a quorum for the adoption of decisions;

(5) Board of administrators shall mean the governing board of the regime, consisting of not less than three members selected by and from the co-owners;

(6) General common elements shall mean and include:

(a) The land or leasehold interest in land on which the building stands;

(b) The foundations, main walls, roofs, halls, lobbies, stairways, and entrances and exit or communication ways;

(c) The basements, roofs, yards, and gardens; except as otherwise provided or stipulated;

(d) The premises for the lodging of janitors or persons in charge of the building; except as otherwise provided or stipulated;

(e) The compartments or installations of central services such as power, light, gas, cold and hot water, refrigeration, reservoirs, water tanks and pumps, and the like;

(f) The elevators, garbage incinerators, and, in general, all devices or installations existing for common use; and

(g) All other elements of the building rationally of common use or necessary to its existence, upkeep, and safety;

(7) Limited common elements shall mean and include those common elements which are agreed upon by all the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like;

(8) Majority of co-owners shall mean more than fifty percent of the basic value of the property as a whole, in accordance with the percentages computed in accordance with the provisions of section 76-806;

(9) Master deed shall mean the deed establishing the condominium property regime;

(10) Person shall mean an individual, firm, corporation, partnership, limited liability company, association, trust, or other legal entity; or any combination thereof;

(11) Property shall mean and include the land, leasehold interests in land, any building, all improvements and structures thereon, and all easements, rights, and appurtenances belonging thereto or any of them alone;

(12) To record shall mean to record in accordance with ~~the provisions of~~ sections 76-237 to 76-257; or other applicable recording statutes;

(13) Common expense shall mean and include:

(a) All sums lawfully assessed against the apartment owner;

(b) Expense of administration, maintenance, repair, or replacement of common elements; and

(c) Expenses agreed upon as common expenses by the association of co-owners; and

(14) All pronouns used in ~~sections 76-801 to 76-823~~ the Condominium Property Act shall include the male, female, and neuter genders and include the singular or plural numbers, as the case may be.

For condominiums created in this state before January 1, 1984, the definitions in section 76-827 shall apply, to the extent necessary in construing the provisions of sections 76-827, 76-829 to 76-831, 76-840, 76-841, 76-869, 76-874, 76-876, 76-884, and 76-891 and subdivisions (a)(1) ~~to~~ through (a)(6) and (a)(11) ~~to~~ through (a)(16) of section 76-860 which apply to events and circumstances which occur after January 1, 1984.

Sec. 480. That section 76-827, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-827. In the declaration and bylaws, unless specifically provided otherwise or the context otherwise requires, and in ~~sections 76-825 to 76-894~~ the Nebraska Condominium Act:

(1) Affiliate of a declarant means any person who controls, is controlled by, or is under common control with a declarant. A person controls a declarant if the person (i) is a general partner, member, officer, director, or employer of the declarant, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interest in the declarant, (iii) controls in any manner the election of a majority of the directors of the declarant, or (iv) has contributed more than twenty percent of the capital of the declarant. A person is controlled by a declarant if the declarant (i) is a general partner, member, officer, director, or employer of the person, (ii) directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than twenty percent of the voting interest in the person, (iii) controls in any manner the election of a majority of the directors of the person, or (iv) has contributed more than thirty percent of the capital of the person. Control does not exist if the powers described in this paragraph are held solely as security for an obligation and are not exercised.

(2) Allocated interests means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit.

(3) Association or unit owners association means the unit owners association organized under section 76-859.

(4) Common elements means all portions of a condominium other than the units.

(5) Common expenses means expenditures made by or financial liabilities of the association, together with any allocations to reserves.

(6) Common expense liability means the liability for common expenses allocated to each unit pursuant to section 76-844.

(7) Condominium means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

(8) Conversion building means a building that at any time before creation of the condominium was occupied wholly or partially by persons other than purchasers and persons who occupy with the consent of purchasers.

(9) Declarant means any person or group of persons acting in concert who (i) as part of a common promotional plan, offers to dispose of his, her, or its interest in a unit not previously disposed of, or (ii) reserves or succeeds to any special declarant right.

(10) Declaration means any instruments, however denominated, that create a condominium, and any amendments to those instruments.

(11) Development rights means any right or combination of rights reserved by a declarant in the declaration to (i) add real estate to a condominium; (ii) create units, common elements, or limited common elements within a condominium; (iii) subdivide units or convert units into common elements; or (iv) withdraw real estate from a condominium.

(12) Dispose or disposition means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the transfer or release of a security interest.

(13) Executive board means the body, regardless of name, designated in the declaration to act on behalf of the association.

(14) Identifying number means a symbol or address that identifies only one unit in a condominium.

(15) Leasehold condominium means a condominium in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the condominium or reduce its size.

(16) Limited common element means a portion of the common elements allocated by the declaration or by operation of subsection (2) or (4) of section 76-839 for the exclusive use of one or more but fewer than all of the units.

(17) Master association means an organization described in section 76-857, whether or not it is also an association described in section 76-859.

(18) Offering means any advertisement, inducement, solicitation, or attempt to encourage any person to acquire any interest in a unit, other than as security for an obligation. An advertisement in a newspaper or other periodical of general circulation, or in any broadcast medium to the general public, of a condominium not located in this state, is not an offering if the advertisement states that an offering may be made only in compliance with the law of the jurisdiction in which the condominium is located.

(19) Person means a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint

venture, government, governmental subdivision or agency, or other legal or commercial entity. In the case of a land trust, however, person means the beneficiary of the trust rather than the trust or the trustee.

(20) Purchaser means any person, other than a declarant or a person in the business of selling real estate for his or her own account, who by means of a voluntary transfer acquires a legal or equitable interest in a unit other than (i) a leasehold interest including renewal options of less than twenty years, or (ii) as security for an obligation.

(21) Real estate means any leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. Real estate includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water.

(22) Residential purposes means use for dwelling or recreational purposes, or both.

(23) Special declarant rights means rights reserved for the benefit of a declarant to (i) complete improvements indicated on plats and plans filed with the declaration as provided in section 76-846; (ii) exercise any development right pursuant to section 76-847; (iii) maintain sales offices, management offices, signs advertising the condominium, and models pursuant to section 76-852; (iv) use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to the condominium pursuant to section 76-853; (v) make the condominium part of a larger condominium or a planned community pursuant to section 76-858; (vi) make the condominium subject to a master association pursuant to section 76-857; or (vii) appoint or remove any officer of the association or any master association or any executive board member during any period of declarant control pursuant to subsection (d) of section 76-861.

(24) Unit means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described pursuant to subdivision (a)(5) of section 76-842.

(25) Unit owner means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but does not include a person having an interest in a unit solely as security for an obligation.

Sec. 481. That section 76-902, Revised Statutes Supplement, 1992, be amended to read as follows:

76-902. The tax imposed by section 76-901 shall not apply to:

- (1) Deeds recorded prior to November 18, 1965;
- (2) Deeds to property transferred by or to the United States of America, the State of Nebraska, or any of their agencies or political

subdivisions;

(3) Deeds which secure or release a debt or other obligation;

(4) Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded but which do not extend or limit existing title or interest;

(5)(a) Deeds between husband and wife, or parent and child, without actual consideration therefor, and (b) deeds to or from a family corporation, ~~or~~ partnership, or limited liability company when all the shares of stock of the corporation or interest in the partnership or limited liability company are owned by members of a family, or a trust created for the benefit of a member of that family, related to one another within the fourth degree of kindred according to the rules of civil law, and their spouses, for no consideration other than the issuance of stock of the corporation or interest in the partnership or limited liability company to such family members or the return of the stock to the corporation in partial or complete liquidation of the corporation or deeds in dissolution of the interest in the partnership or limited liability company. In order to qualify for the exemption for family corporations, ~~or~~ partnerships, or limited liability companies, the property shall be transferred in the name of the corporation or partnership and not in the name of the individual shareholders, ~~or~~ partners, or members;

(6) Tax deeds;

(7) Deeds of partition;

(8) Deeds made pursuant to mergers, consolidations, sales, or transfers of the assets of corporations pursuant to plans of merger or consolidation filed with the office of Secretary of State. A copy of such plan filed with the Secretary of State shall be presented to the register of deeds before such exemption is granted;

(9) Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;

(10) Cemetery deeds;

(11) Mineral deeds;

(12) Deeds executed pursuant to court decrees;

(13) Land contracts;

(14) Deeds which release a reversionary interest, a condition subsequent or precedent, a restriction, or any other contingent interest;

(15) Deeds of distribution executed by a personal representative conveying to devisees or heirs property passing by testate or intestate succession;

(16) Deeds transferring property located within the boundaries of an Indian reservation if the grantor or grantee is a reservation Indian;

(17) Deeds transferring property into a trust if the transfer of the same property would be exempt if the transfer was made directly from the grantor to the beneficiary or beneficiaries under the trust. No

such exemption shall be granted unless the register of deeds is presented with a signed statement certifying that the transfer of the property is made under such circumstances as to come within one of the exemptions specified in this section and that evidence supporting the exemption is maintained by the person signing the statement and is available for inspection by the Department of Revenue;

(18) Deeds transferring property from a trustee to a beneficiary of a trust;

(19) Deeds which convey property held in the name of any partnership or limited liability company not subject to subdivision (5) of this section to any partner in the partnership or member of the limited liability company or to his or her spouse;

(20) Leases; or

(21) Easements.

Sec. 482. That section 76-1226, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1226. Person shall mean any individual, partnership, limited liability company, corporation, or association.

Sec. 483. That section 76-1302, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1302. For the purposes of sections 76-1301 to 76-1315, unless the context otherwise requires:

(1) Retirement subdivision or subdivision shall mean any land which is divided or proposed to be divided into ten or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan when such subdivision is advertised or represented as a retirement subdivision or as a subdivision primarily for retirees or elderly persons, or when there is a minimum age limit tending to attract persons who are nearing retirement age;

(2) Retirement community or community shall mean any complex or proposed complex of more than ten units, whether contained in one or more buildings or whether constructed on separate lots, offered for sale or lease as part of a common promotional plan when such community is advertised or represented as a retirement community or as a community primarily for retirees or elderly persons, or when there is a minimum age limit tending to attract persons who are nearing retirement age;

(3) Unit shall mean any apartment or structure intended primarily as a residence and consisting of one or more rooms occupying all or part of a floor or floors in a building of one or more floors or stories, including a single residence dwelling;

(4) Common promotional plan shall include an offer for sale or lease of lots or units in a subdivision or community by a single developer, or a group of developers acting in concert when such lots or units are contiguous, or are known, designated, or advertised as a common entity or by a common name;

(5) Person shall mean an individual, ~~or any~~ unincorporated organization, partnership, limited liability company,

association, corporation, trust, or estate;

(6) Developer shall mean any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a retirement subdivision or any units in a retirement community;

(7) Agent shall mean any person who represents, or acts for or on behalf of, a developer in selling or leasing, or offering to sell or lease, any lot or lots in a retirement subdivision or any units in a retirement community, but shall not include an attorney at law whose representation of another person consists solely of rendering legal services;

(8) State shall mean the State of Nebraska;

(9) Purchaser shall mean an actual or prospective purchaser or lessee of any lot or unit in a subdivision or community;

(10) Offer shall include any inducement, solicitation, or attempt to encourage a person to acquire a lot or unit in a subdivision or community;

(11) Disposition shall include sale, lease, assignment, award by lottery, or any other transaction concerning a subdivision or community;

(12) Agency shall mean the State Real Estate Commission; ~~and of the State of Nebraska; and~~

(13) Lease shall mean a contract for the use and occupancy of real estate primarily as a residence when the contract term is for more than one year or is for life and when the lessee is required to pay an initial fee which is more than reasonably necessary to cover a deposit for damages and restoration of the premises, the last month's rent and the first month's rent in advance.

Sec. 484. That section 76-1410, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1410. Subject to additional definitions contained in ~~sections 25-21, 219 and 76-1401 to 76-1449,~~ the Uniform Residential Landlord and Tenant Act and unless the context otherwise requires:

(1) Action includes recoupment, counterclaim, setoff, suit in equity, and any other proceeding in which rights are determined, including an action for possession.

(2) Building and housing codes include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of any premises, or dwelling unit. Minimum housing code shall be limited to those laws, resolutions, or ordinances or regulations, or portions thereof, dealing specifically with health and minimum standards of fitness for habitation.

(3) Dwelling unit means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(4) Good faith means honesty in fact in the conduct of the transaction concerned.

(5) Landlord means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by section 76-1417.

(6) Organization includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, or association, two or more persons having a joint or common interest, and any other legal or commercial entity.

(7) Owner means one or more persons, jointly or severally, in whom is vested (a) all or part of the legal title to property, or (b) all or part of the beneficial ownership and a right to present use and enjoyment of the premises; and the term includes a mortgagee in possession.

(8) Person includes an individual, limited liability company, or organization.

(9) Premises means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

(10) Rent means all payments to be made to the landlord under the rental agreement.

(11) Rental agreement means all agreements, written or oral, between a landlord and tenant, and valid rules and regulations adopted under section 76-1422 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

(12) Roomer means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling units. Major facility in the case of a bathroom means toilet, or either a bath or shower, and in the case of a kitchen means refrigerator, stove, or sink.

(13) Single-family residence means a structure maintained and used as a single dwelling unit. Notwithstanding that a dwelling unit shares one or more walls with another dwelling unit, it is a single-family residence if it has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

(14) Tenant means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others.

Sec. 485. That section 76-1458, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-1458. Business shall mean a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, association, two or more persons having a joint or common interest, or any other legal or commercial entity which is a landlord, owner, manager, or deemed to be an agent pursuant to section 76-1480.

Sec. 486. That section 76-1702, Reissue Revised Statutes

of Nebraska, 1943, be amended to read as follows:

76-1702. ~~As used in sections 76-1701 to 76-1741~~ For purposes of the Nebraska Time-Share Act, unless the context otherwise requires:

(1) Acquisition agent shall mean a person who by means of telephone, mail, advertisement, inducement, solicitation, or otherwise attempts directly to encourage any person to attend a sales presentation for a time-share program;

(2) Commission shall mean the State Real Estate Commission;

(3) Developer shall mean in the case of any given property, any person or entity which is in the business of creating or which is in the business of selling its own time-share intervals in any time-share program, but does not include a person acting solely as a sales agent;

(4) Development, project, or property shall mean all of the real property subject to a project instrument and containing more than one unit;

(5) Exchange agent shall mean a person who exchanges or offers to exchange time-share intervals in an exchange program with other time-share intervals;

(6) Managing agent shall mean a person who undertakes the duties, responsibilities, and obligations of the management of a time-share program;

(7) Offering shall mean any offer to sell, solicitation, inducement, or advertisement whether by radio, television, newspaper, magazine, or by mail, whereby a person is given an opportunity to acquire a time-share interval. Any offering of a time-share interval which is not located in this state shall not be an offering if the offer states that the time-share program is in compliance with the law of the jurisdiction in which the time-share interval is located;

(8) Person shall mean one or more natural persons, corporations, partnerships, limited liability companies, associations, trusts, other entities, or any combination thereof;

(9) Project instrument shall mean one or more recordable documents applicable to the whole project by whatever name denominated, containing restrictions or covenants regulating the use, occupancy, or disposition of an entire project, including any amendments to the document, but excluding any law, ordinance, or governmental regulation;

(10) Public-offering statement shall mean that statement required by sections 76-1713 and 76-1714;

(11) Purchaser shall mean any person other than a developer or lender who acquires an interest in a time-share interval;

(12) Sales agent shall mean a person, licensed by the commission as a real estate broker or salesperson, who sells or offers to sell time-share intervals in a time-share program to a purchaser;

(13) Time-share estate shall mean an ownership or leasehold estate in property devoted to a time-share fee or a time-share

lease;

(14) Time-share instrument shall mean any document by whatever name denominated creating or regulating time-share programs, but excluding any law, ordinance, or governmental regulation;

(15) Time-share interval shall mean a time-share estate or a time-share use;

(16) Time-share program shall mean any arrangement for time-share intervals in a time-share project whereby the use, occupancy, or possession of real property has been made subject to either a time-share estate or time-share use whereby such use, occupancy, or possession circulates among purchasers of the time-share intervals according to a fixed or floating time schedule on a periodic basis occurring annually over any period of time in excess of three years in duration;

(17) Time-share project shall mean any real property that is subject to a time-share program;

(18) Time-share use shall mean any contractual right of exclusive occupancy which does not fall within the definition of a time-share estate, including, without limitation, a vacation license, prepaid hotel reservation, club membership, limited partnership, or vacation bond; and

(19) Unit shall mean the real property or real property improvement in a project which is divided into time-share intervals.

Sec. 487. That section 76-2102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-2102. For purposes of the Membership Campground Act:

(1) Advertisement shall mean an attempt by publication, dissemination, solicitation, or circulation to induce, directly or indirectly, any person to enter into an obligation or acquire a title or interest in a membership camping contract;

(2) Affiliate shall mean any person who, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with the person specified;

(3) Blanket encumbrance shall mean any mortgage, deed of trust, option to purchase, vendor's lien or interest under a contract or agreement of sale, judgment lien, federal or state tax lien, or other material lien or encumbrance which secures or evidences the obligation to pay money or to sell or convey all or part of a campground located in this state, made available to purchasers by the membership camping operator, and which authorizes, permits, or requires the foreclosure or other disposition of the campground. Blanket encumbrance shall include the lessor's interest in a lease of all or part of a campground which is located in this state and which is made available to purchasers by a membership camping operator. Blanket encumbrance shall not include a lien for taxes or assessments levied by a public body which are not yet due and payable;

(4) Business day shall mean any day except Saturday, Sunday, or a legal holiday;

(5) Campground shall mean real property made available

to persons for camping, whether by tent, trailer, camper, cabin, recreational vehicle, or similar device, and shall include the outdoor recreational facilities located on the real property. Campground shall not include a mobile home park as defined in section 76-1464;

(6) Campsite shall mean a space:

(a) Designed and promoted for the purpose of locating a trailer, tent, tent trailer, recreational vehicle, pickup camper, or other similar device used for camping; and

(b) With no permanent dwelling on it;

(7) Commission shall mean the State Real Estate Commission;

(8) Controlling persons of a membership camping operator shall mean each director and officer and each owner of twenty-five percent or more of the stock of the operator, if the operator is a corporation, ~~and~~ each general partner and each owner of twenty-five percent or more of the partnership or other interests, if the operator is a general or limited partnership or other person doing business as a membership camping operator, and each member owning twenty-five percent or more of the limited liability company, if the operator is a limited liability company;

(9) Facilities shall mean any of the following amenities provided and located on the campground: Campsites; rental trailers; swimming pools; sport courts; recreation buildings and trading posts; or grocery stores;

(10) Membership camping contract shall mean an agreement offered or sold within this state evidencing a purchaser's right to use a campground of a membership camping operator for more than thirty days during the term of the agreement;

(11) Membership camping operator or operator shall mean any person, other than one who is tax exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended, who owns or operates a campground and offers or sells membership camping contracts paid for by a fee or periodic payments. Membership camping operator shall not include the operator of a mobile home park as defined in section 76-1464;

(12) Offer shall mean an inducement, solicitation, or attempt to encourage a person to acquire a membership camping contract;

(13) Person shall mean any individual, partnership, limited liability company, firm, corporation, or association;

(14) Purchaser shall mean a person who enters into a membership camping contract with a membership camping operator and obtains the right to use the campground owned or operated by the membership camping operator;

(15) Sale or sell shall mean entering into or other disposition of a membership camping contract for value. For purposes of this subdivision, value shall not include a fee to offset the reasonable costs of a transfer of a membership camping contract; and

(16) Salesperson shall mean any individual, other than a membership camping operator, who is engaged in obtaining commitments of persons to enter into membership camping contracts by making a direct

sales presentation to the person but shall not include any individual engaged in the referral of persons without making any representations about the camping program or a direct sales presentation to such persons.

Sec. 488. That section 76-2105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-2105. (1) Filing fees as prescribed in section 76-2109 shall accompany the application for registration, the renewal of a registration, or any amendment of a registration of membership camping contracts.

(2) The application for registration shall be filed with the commission and shall include all of the following:

(a) The membership camping operator's name and the address of its principal place of business, the form of its organization, the date of organization, the jurisdiction of its organization, and the name and address of each of its offices in this state;

(b) A copy of the membership camping operator's articles of incorporation, partnership agreement, articles of organization, or joint venture agreement as contemplated or currently in effect;

(c) The name, address, and principal occupation for the past five years of the membership camping operator and of each controlling person of the membership camping operator and the extent of each such person's interest in the membership camping operator as of a specified date within thirty days prior to the filing of the application;

(d) A list of affiliates of the membership camping operator, including the names and addresses of officers and directors;

(e) A legal description of each campground owned or operated by the membership camping operator which is represented to be available for use by purchasers and a statement identifying the existing amenities at each campground and the planned amenities represented as to be available for use by purchasers in the future at each campground. If future amenities are represented, the statement shall include the estimated cost and schedule for completion of those amenities;

(f) A description of the membership camping operator's ownership of or other right to use the campground properties or facilities represented to be available for use by purchasers, together with a brief description of any material encumbrance, the duration of any lease, real estate contract, license, franchise, reciprocal agreement, or other agreement entitling the membership camping operator to use the property, and any material provisions of the agreements which restrict a purchaser's use of the property;

(g) If a blanket encumbrance materially adversely affects a campground, a legal description of the encumbrance and a description of the steps taken to protect purchasers in accordance with section 76-2116 in case of failure to discharge the encumbrance;

(h) A description of all payments of a purchaser under a membership camping contract, including initial fees and any additional fees, charges, or assessments, together with any provision for changing the payments;

(i) A description of any restraints on the transfer of membership camping contracts, including a complete description of any resale agreement or policy;

(j) A description of the policies relating to the availability of campsites and whether reservations are required;

(k) A description of any grounds for forfeiture of a purchaser's membership camping contract;

(l) A sample copy of each membership camping contract to be offered or sold in this state and the purchase price of each type and, if the price varies, the reason for the variance;

(m) A sample copy of each instrument which a purchaser will be required to execute, and a copy of the disclosure statement required by section 76-2110;

(n) A statement of the total number of membership camping contracts for each campground intended to be sold in this state and the method used to determine the number, including a statement of commitment that the number will not be exceeded unless good cause is shown to the commission and subsequent approval is granted by the commission;

(o) A summary or copy of the articles, bylaws, rules, regulations, restrictions, or covenants regulating the purchaser's use of each campground and the facilities located on each property, including a statement of whether and how the articles, bylaws, rules, regulations, restrictions, or covenants may be changed;

(p) A description of any reciprocal agreement allowing purchasers to use campsites, facilities, or other properties owned or operated by any person other than the membership camping operator with whom the purchaser has entered into a membership camping contract; and

(q) Financial statements of the membership camping operator in a form acceptable to the commission and prepared in accordance with generally accepted accounting principles, which statements shall include a financial statement for the most recent fiscal year and a financial statement for the most recent fiscal quarter. The commission may require an audited financial statement if the commission is not satisfied with the reliability of the submitted statement and the ability of the membership camping operator to meet future commitments.

(3) The application shall be signed by the membership camping operator, by an officer or a general partner of the membership camping operator, or by another person holding a power of attorney for such purpose from the membership camping operator. If the application is signed pursuant to a power of attorney, a copy of the power of attorney shall be included with the application.

(4) An application for registration shall be amended within twenty-five days of any material change in the information included in the application. A material change shall include, but not be limited to, any change which significantly reduces or terminates either the applicant's or the purchaser's right to use the campground or any of the facilities

described in the membership camping contract but shall not include minor changes covering the use of the campground, its facilities, or the reciprocal program.

(5) The registration of the membership camping operator shall be renewed annually by filing an application for renewal with the required fee prescribed in section 76-2109 not later than thirty days prior to the anniversary of the current registration. The application shall include all changes which have occurred in the information included in the application previously filed.

(6) Registration with the commission shall not constitute approval or endorsement by the commission of the membership camping operator, the membership camping contract, or the campground, and any attempt by the membership camping operator to indicate that registration constitutes such approval or endorsement shall be unlawful.

Sec. 489. That section 76-2110, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

76-2110. (1) A membership camping operator subject to the registration requirements of sections 76-2103 and 76-2105 shall provide a disclosure statement to a purchaser or prospective purchaser before the person signs a membership camping contract or gives any money or thing of value for the purchase of a membership camping contract.

(2) The front cover or first page of the disclosure statement shall contain only the following in the order stated:

(a) Membership camping operator's disclosure statement printed at the top in boldface type of a minimum size of ten points;

(b) The name and principal business address of the membership camping operator and any material affiliate of the membership camping operator;

(c) A statement that the membership camping operator is in the business of offering for sale membership camping contracts;

(d) A statement printed in double-spaced, boldface type of a minimum size of ten points which reads as follows:

THIS DISCLOSURE STATEMENT CONTAINS IMPORTANT MATTERS TO BE CONSIDERED IN THE EXECUTION OF A MEMBERSHIP CAMPING CONTRACT. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO DELIVER TO YOU A COPY OF THIS DISCLOSURE STATEMENT BEFORE YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT. THE STATEMENTS CONTAINED IN THIS DOCUMENT ARE ONLY SUMMARY IN NATURE. YOU, AS A PROSPECTIVE PURCHASER, SHOULD REVIEW ALL REFERENCES, EXHIBITS, CONTRACT DOCUMENTS, AND SALES MATERIALS. YOU SHOULD NOT RELY UPON ANY ORAL REPRESENTATIONS AS BEING CORRECT. ANY ORAL MISREPRESENTATION SHALL BE A VIOLATION OF THE MEMBERSHIP CAMPGROUND ACT. REFER TO THIS DOCUMENT AND TO THE ACCOMPANYING EXHIBITS FOR

CORRECT REPRESENTATIONS. THE MEMBERSHIP CAMPING OPERATOR IS PROHIBITED FROM MAKING ANY REPRESENTATIONS WHICH CONFLICT WITH THOSE CONTAINED IN THE CONTRACT AND THIS DISCLOSURE STATEMENT; and

(e) A statement printed in double-spaced, boldface type of a minimum size of ten points which reads as follows:

IF YOU EXECUTE A MEMBERSHIP CAMPING CONTRACT, YOU HAVE THE UNQUALIFIED RIGHT TO CANCEL THE CONTRACT. THIS RIGHT OF CANCELLATION CANNOT BE WAIVED. THE RIGHT TO CANCEL EXPIRES AT MIDNIGHT ON THE THIRD BUSINESS DAY FOLLOWING THE DATE ON WHICH THE CONTRACT WAS EXECUTED OR THE DATE OF RECEIPT OF THIS DISCLOSURE STATEMENT, WHICHEVER EVENT OCCURS LATER. TO CANCEL THE MEMBERSHIP CAMPING CONTRACT, YOU, AS THE PURCHASER, MUST HAND DELIVER OR MAIL NOTICE OF YOUR INTENT TO CANCEL TO THE MEMBERSHIP CAMPING OPERATOR AT THE ADDRESS SHOWN IN THE MEMBERSHIP CAMPING CONTRACT, POSTAGE PREPAID. THE MEMBERSHIP CAMPING OPERATOR IS REQUIRED BY LAW TO RETURN ALL MONEY PAID BY YOU IN CONNECTION WITH THE EXECUTION OF THE MEMBERSHIP CAMPING CONTRACT UPON YOUR PROPER AND TIMELY CANCELLATION OF THE CONTRACT AND RETURN OF ALL MEMBERSHIP AND RECIPROCAL-USE PROGRAM MATERIALS FURNISHED AT THE TIME OF PURCHASE.

(3) The following pages of the disclosure statement shall contain all of the following in the order stated:

(a) The name, principal occupation, and address of every director, partner, limited liability company member, or controlling person of the membership camping operator;

(b) A description of the nature of the purchaser's right or license to use the campground and the facilities which are to be available for use by purchasers;

(c) A description of the membership camping operator's experience in the membership camping business, including the length of time the operator has been in the membership camping business;

(d) The location of each of the campgrounds which is to be available for use by purchasers and a description of the facilities at each campground which are currently available for use by purchasers. Facilities which are planned, incomplete, or not yet available for use shall be clearly identified as incomplete or unavailable. A description of any facilities that are or will be available to nonpurchasers and a projected date of completion shall also be provided. The description shall include, but not be limited to, the number of campsites in each campground and campsites in each campground with full or partial hookups, swimming pools, tennis courts, recreation buildings, restrooms and showers, laundry

rooms, trading posts, and grocery stores;

(e) The fees and charges that purchasers are or may be required to pay for the use of the campground or any facilities;

(f) Any initial, additional, or special fee due from the purchaser, together with a description of the purpose and method of calculating the fee;

(g) The extent to which financial arrangements, if any, have been provided for the completion of facilities, together with a statement of the membership camping operator's obligation to complete planned facilities. The statement shall include a description of any restrictions or limitations on the membership camping operator's obligation to begin or to complete the facilities;

(h) The names of the managing entity, if any, and the significant terms of any management contract, including, but not limited to, the circumstances under which the membership camping operator may terminate the management contract;

(i) A statement, whether by way of supplement or otherwise, of the rules, regulations, restrictions, or covenants regulating the purchaser's use of the campground and the facilities which are to be available for use by the purchaser, including a statement of whether and how the rules, regulations, restrictions, or covenants may be changed;

(j) A statement of the policies covering the availability of campsites, the availability of reservations, and the conditions under which they are made;

(k) A statement of any grounds for forfeiture of a purchaser's membership camping contract;

(l) A statement of whether the membership camping operator has the right to withdraw permanently from use all or any portion of any campground devoted to membership camping and, if so, the conditions under which the withdrawal shall be permitted;

(m) A statement describing the material terms and conditions of any reciprocal program to be available to the purchaser, including a statement concerning whether the purchaser's participation in any reciprocal program is dependent on the continued affiliation of the membership camping operator with that reciprocal program, whether additional costs may be required to use reciprocal facilities, and whether the membership camping operator reserves the right to terminate such affiliation;

(n) As to all memberships offered by the membership camping operator at each campground, all of the following:

(i) The form of membership offered;

(ii) The types of duration of membership along with a summary of the major privileges, restrictions, and limitations applicable to each type;

(iii) Provisions that have been made for public utilities at each campsite, including water, electricity, telephone, and sewage facilities; and

(iv) The number of memberships to be sold to that

campground;

(o) A statement of the assistance, if any, that the membership camping operator will provide to the purchaser in the resale of membership camping contracts and a detailed description of how any such resale program is operated; and

(p) The following statement printed in double-spaced, boldface type of a minimum size of ten points:

REGISTRATION OF THE MEMBERSHIP CAMPING OPERATOR WITH THE STATE REAL ESTATE COMMISSION SHALL NOT CONSTITUTE AN APPROVAL OR ENDORSEMENT BY THE COMMISSION OF THE MEMBERSHIP CAMPING OPERATOR, THE MEMBERSHIP CAMPING CONTRACT, OR THE CAMPGROUND.

The membership camping operator shall promptly amend the disclosure statement to reflect any material change and shall promptly file any such amendments with the commission.

Sec. 490. That section 76-2227, Revised Statutes Supplement, 1992, be amended to read as follows:

76-2227. (1) Applications for registration, licensure, or certification, for renewal of a registration, license, or certificate, and to take an examination shall be made in writing to the board on forms approved by the board. The payment of the appropriate fee fixed by the board pursuant to section 76-2241 shall accompany all applications for registration, licensure, or certification, for renewal of a registration, license, or certificate, and to take an examination.

(2) At the time of filing an initial or renewal application for registration, licensure, or certification, the applicant shall sign a pledge that he or she has read and will comply with the standards of professional appraisal practice and the ethical rules established under section 76-2237. Each applicant shall also certify that he or she understands the types of misconduct for which disciplinary proceedings may be initiated.

(3) No registration, license, or certificate shall be issued to a corporation, partnership, limited liability company, firm, or group.

Sec. 491. That section 76-2229, Revised Statutes Supplement, 1992, be amended to read as follows:

76-2229. (1) No person other than a registered real estate appraiser shall assume or use the title registered real estate appraiser or any title, designation, or abbreviation likely to create the impression of registration as a real estate appraiser by this state. No person other than a licensed real estate appraiser shall assume or use the title licensed real estate appraiser or any title, designation, or abbreviation likely to create the impression of licensure as a real estate appraiser by this state. No person other than a certified real estate appraiser shall assume or use the title certified real estate appraiser or any title, designation, or abbreviation likely to create the impression of certification as a real estate appraiser by this state. A real estate appraiser shall state whether he or she is registered, licensed, or certified whenever he or she identifies himself or herself as a real estate appraiser, including on all reports which are signed

as cosigner.

(2) Only a person who has been certified as a certified real estate appraiser may prepare and sign a certified appraisal report relating to real estate or real property in this state, except that an appraiser trainee or a registered or licensed real estate appraiser may assist a certified real estate appraiser in the appraisal process and may cosign the report. A person who has not been certified as a certified real estate appraiser shall not describe or refer to any appraisal or appraisal report relating to real estate or real property in this state by the terms certified appraisal or certified appraisal report unless such person cosigned such report with a certified real estate appraiser.

(3) The term certified real estate appraiser may only be used to refer to a person who is a certified real estate appraiser under the Real Estate Appraiser Act and may not be used following or immediately in connection with the name or signature of a corporation, partnership, limited liability company, firm, or group or in such manner that it might be interpreted as referring to a corporation, partnership, limited liability company, firm, or group or to anyone other than the certificate holder. This requirement shall not be construed to prevent a certified real estate appraiser from signing a certified appraisal report on behalf of a corporation, partnership, limited liability company, firm, or group if it is clear that only the person is certified and that the corporation, partnership, limited liability company, firm, or group is not.

Sec. 492. That section 77-113, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-113. The word person includes any number of persons; and any ~~partnership~~ partnership, limited liability company, association, joint-stock company, corporation, or ~~any~~ other entity that may be the owner of property.

Sec. 493. That section 77-122, Revised Statutes Supplement, 1992, be amended to read as follows:

77-122. Purchase shall include taking by sale, discount, negotiation, or any other transaction for value creating an interest in property except liens. Purchase shall not include transfers for stock or other ownership interests upon creation, dissolution, or any other tax-free reorganization for income tax purposes of any corporation, partnership, limited liability company, trust, or other entity.

Sec. 494. That section 77-1201, Revised Statutes Supplement, 1992, be amended to read as follows:

77-1201. All tangible personal property in this state subject to taxation shall be assessed as of January 1 at 12:01 a.m., which assessment shall be used as a basis of taxation until the next regular assessment. A complete list of all taxable tangible personal property held or owned on the assessment date, except motor vehicles as defined in section 77-1238, shall be made as follows:

(1) Every person shall list all his or her tangible personal property as defined in section 77-105 having tax situs in the State of Nebraska;

(2) The tangible personal property of a minor child shall be listed by the following: (a) His or her guardian; (b) if he or she has no guardian, by his or her parent, if living; and (c) if neither parent is living, by the person having such property in charge;

(3) The tangible personal property of any other person under guardianship, by his or her guardian or, if he or she has no guardian, by the person having charge of such property;

(4) The tangible personal property of a person for whose benefit it is held in trust, by the trustee, and of the estate of a deceased person, by the personal representative or administrator;

(5) The tangible personal property of corporations the assets of which are in the hands of a receiver, by such a receiver;

(6) The tangible personal property of corporations, by the president or the proper agent or officer thereof;

(7) The tangible personal property of a firm or company, by a partner, member, or agent thereof;

(8) The tangible personal property of manufacturers and others in the hands of an agent, by and in the name of such agent; and

(9) All leased tangible personal property shall be reported, by itemizing each article, by lessor as owner or lessee as agent.

Sec. 495. That section 77-1244, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1244. As used in sections 77-1244 to 77-1246:

(1) The term air carrier means any person, firm, partnership, limited liability company, corporation, association, trustee, receiver, or assignee; and all other persons, whether or not in a representative capacity, undertaking to engage in the carriage of persons or cargo for hire by aircraft. Any ~~any~~ air carrier as herein defined; engaged solely in intrastate transportation, whose flight equipment is based at only one airport within the state, shall be excepted from taxation under this section, but shall be subject to taxation in the same manner as other locally assessed property;

(2) The term aircraft arrivals and departures means (a) the number of scheduled landings and takeoffs of the aircraft of an air carrier, (b) the number of scheduled air pickups and deliveries by the aircraft of such carrier, and (c) in the case of nonscheduled operations, shall include all landings and takeoffs, pickups, and deliveries;

(3) The term flight equipment means aircraft fully equipped for flight and used within the continental limits of the United States;

(4) The term originating revenue means revenue to an air carrier from the transportation of revenue passengers and revenue cargo exclusive of the revenue derived from the transportation of express or mail; and

(5) The term revenue tons handled by an air carrier means the weight in tons of revenue passengers and revenue cargo received and discharged as originating or terminating traffic.

Sec. 496. That section 77-1323, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1323. Every person, partnership, limited liability company, association, or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall furnish a certified statement to be attached to the contract that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

Sec. 497. That section 77-1324, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-1324. Any person, partnership, limited liability company, association, or corporation falsifying any statement required by section 77-1323; shall be guilty of a Class IV misdemeanor.

Sec. 498. That section 77-2363, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2363. In all cases in which public money or funds belonging to the United States, an agency of the United States, the State of Nebraska, or any county, school district, educational service unit, community college, city, village, or transit authority in this state have been deposited or loaned to any person or persons, corporation, bank, capital stock financial institution, partnership, limited liability company, or other firm or association of persons, it shall be lawful for the officer or officers making such deposit or loan or his, her, or their successors in office to maintain an action or actions for the recovery of such money so deposited or loaned. All contracts made for the security or payment of any such money or public funds shall be held to be good and lawful contracts binding on all parties thereto.

Sec. 499. That section 77-2601, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2601. As used in sections 77-2601 to 77-2615: (1) The word person means and includes every individual, firm, association, joint-stock company, partnership, ~~copartnership~~, limited liability company, syndicate, and corporation; (2) the term wholesale dealer includes only those persons who sell cigarettes to licensed retail dealers other than branch stores operated by or connected with such wholesale dealer or for purposes of resale only; as prescribed by section 28-1423; (3) the term retail dealer includes every person other than a wholesale dealer engaged in the business of selling cigarettes in this state irrespective of quantity, amount, or number of sales thereof; (4) the term department shall mean the Tax Commissioner as it now exists, or whatever agency of the state succeeds to its functions, by whatever name known; (5) the term director means the Tax Commissioner, or his or her successor, by whatever name known; (6) the term cigarettes includes any roll for smoking made wholly or in part of tobacco irrespective of size or shape and whether or not such tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other material excepting tobacco; and (7) the term consumer means any person, firm, association, partnership, limited liability company, ~~copartnership~~, joint-stock company, syndicate, or corporation not having

a license to sell cigarettes.

Sec. 500. That section 77-2702.09, Revised Statutes Supplement, 1992, be amended to read as follows:

77-2702.09. Occasional sale shall mean:

(1) A sale of tangible personal property which is the subject of any intercompany sale or transfer involving any parent, subsidiary, or brother-sister company relationship under section 77-2704.28 and which was either originally acquired prior to June 1, 1967, or, if acquired thereafter, the seller or transferor directly or indirectly has previously paid a sales or use tax thereon, including:

(a) From one corporation to another corporation pursuant to a reorganization. For purposes of this subdivision, reorganization shall mean a statutory merger or consolidation or the acquisition by a corporation of substantially all of the properties of another corporation when the consideration is solely all or a part of the voting stock of the acquiring corporation or of its parent or subsidiary corporation;

(b) In connection with the winding up, dissolution, or liquidation of a corporation only when there is a distribution of the property of such corporation to the shareholders in kind if the portion of the property so distributed to the shareholder is substantially in proportion to the share of stock or securities held by the shareholder;

(c) To a corporation for the purpose of organization of such corporation or the contribution of additional capital to such corporation when the former owners of the property transferred are immediately after the transfer in control of the corporation and the stock or securities received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(d) To a partnership in the organization of such partnership if the former owners of the property transferred are immediately after the transfer members of such partnership and the interest in the partnership received by each is substantially in proportion to his or her interest in the property prior to the transfer; ~~or~~

(e) From a partnership to the members thereof when made in kind in the dissolution of such partnership if the portion of the property so distributed to the members of the partnership is substantially in proportion to the interest in the partnership held by the members;

(f) To a limited liability company in the organization of such limited liability company if the former owners of the property transferred are immediately after the transfer members of such limited liability company and the interest in the limited liability company received by each is substantially in proportion to his or her interest in the property prior to the transfer;

(g) From a limited liability company to the members thereof when made in kind in the dissolution of such limited liability company if the portion of the property so distributed to the members of the limited liability company is substantially in proportion to the interest in the limited liability company held by the members; or

(h) From one limited liability company to another limited

liability company pursuant to a reorganization:

(2) A sale of tangible personal property consisting of household goods and personal effects if each of the following conditions is met and if any one condition is not met then the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) Such sales are by an individual at his or her residence or if more than one individual's property is involved such sales are by one of the individuals involved at the residence of one of the individuals;

(b) Such sales do not occur at any residence for more than three days during a calendar year;

(c) Such individual or individuals or any member of any of their households does not conduct or engage in a trade or business in which similar items are sold;

(d) Such property sold was originally acquired for and used for personal use; and

(e) Such property is not otherwise excepted from the definition of occasional sale;

(3) Commencing with any transaction occurring on or after October 1, 1985, any sale of business or farm machinery and equipment if each of the following conditions is met and if any one condition is not met the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) Such machinery or equipment was used by the seller or seller's predecessor in a sale described in subdivision (1) of this section as a depreciable capital asset in connection with the farm or business for a period of at least one year;

(b) Such property was originally acquired prior to June 1, 1967, or if acquired thereafter, the seller or seller's predecessor in a sale described in subdivision (1) of this section directly or indirectly has previously paid a sales or use tax thereon; and

(c) Such property is not otherwise excepted from the definition of occasional sale;

(4) Commencing October 1, 1985, a sale of tangible personal property by an organization created exclusively for religious purposes or an agent of the organization for such sale if each of the following conditions is met and if any one condition is not met then the entire gross receipts shall be subject to the tax imposed by section 77-2703:

(a) All sales occur during an activity conducted by such organization or, if more than one organization is involved, by one of the organizations owning property being sold;

(b) The organization only sells property it owns during one such activity in a calendar year; and

(c) The activity does not last longer than three consecutive days; and

(5) Any sale of tangible personal property that is made in connection with the sale to a single buyer of all or substantially all of the tangible personal property of a trade or business if the seller or seller's

predecessor in a sale described in subdivision (1) of this section directly or indirectly has previously paid a sales or use tax thereon. This subdivision shall apply to any transaction occurring on or after October 1, 1985.

Commencing October 1, 1985, occasional sale shall not include any sale of tangible personal property directly by or any sale which is supervised or aided by an auctioneer or an agent or employee of an auctioneer.

Except for a sale listed in subdivision (1) of this section, an occasional sale shall not mean any sale of motor vehicles, trailers, and semitrailers as defined in section 60-301.

Sec. 501. That section 77-2702.10, Revised Statutes Supplement, 1992, be amended to read as follows:

77-2702.10. Person shall mean any individual, firm, ~~or partnership~~ partnership, limited liability company, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or other group or combination acting as a unit. Person shall also mean the United States or any agency of the United States, this state or any agency of this state, or any city, county, district, or other political subdivision of this state or agency of this state.

Sec. 502. That section 77-2705, Revised Statutes Supplement, 1992, be amended to read as follows:

77-2705. (1) Every retailer selling, leasing, or renting tangible personal property for storage, use, or other consumption in this state shall register with the Tax Commissioner and give:

(a) The name and address of all agents operating in this state;

(b) The location of all distribution or sales houses or offices or other places of business in this state; and

(c) Such other information as the Tax Commissioner may require.

(2) Every person furnishing public utility service as defined in subsection (2) of section 77-2702.07 shall register with the Tax Commissioner and give:

(a) The address of each office open to the public in which such public utility service business is transacted with consumers; and

(b) Such other information as the Tax Commissioner may require.

(3) It shall be unlawful for any person to engage in or transact business as a seller within this state after June 1, 1967, unless a permit or permits shall have been issued to him or her as prescribed in this section. Every person desiring to engage in or to conduct business as a seller within this state shall file with the Tax Commissioner an application for a permit for each place of business. At the time of making such application, the applicant shall pay to the Tax Commissioner a permit fee of ten dollars for each permit.

(4) Every application for a permit shall:

(a) Be made upon a form prescribed by the Tax

Commissioner;

(b) Set forth the name under which the applicant transacts or intends to transact business and the location of his or her place or places of business;

(c) Set forth such other information as the Tax Commissioner may require; and

(d) Be signed by the owner if he or she is a natural person; in the case of an association or partnership, by a member or partner; in case of a limited liability company, by a member or some person authorized by the limited liability company to sign such kinds of applications; and in the case of a corporation, by an executive officer or some person authorized by the corporation to sign such kinds of applications.

(5) After compliance with subsections (1) through (4) of this section by the applicant, the Tax Commissioner shall grant and issue to each applicant a separate permit for each place of business within the state. A permit shall not be assignable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued and shall be valid and effective without further payment of fees until revoked by the Tax Commissioner.

(6)(a) Whenever the holder of a permit fails to comply with any provision of the Nebraska Revenue Act of 1967 relating to the retail sales tax or with any rule or regulation of the Tax Commissioner relating to such tax prescribed and adopted under such act, the Tax Commissioner upon hearing, after giving the person twenty days' notice in writing specifying the time and place of hearing and requiring him or her to show cause why his or her permit or permits should not be revoked, may revoke or suspend any one or more of the permits held by the person. The Tax Commissioner shall give to the person written notice of the suspension or revocation of any of his or her permits. The notices may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

(b) The Tax Commissioner shall have the power to restore permits which have been revoked but shall not issue a new permit after the revocation of a permit unless he or she is satisfied that the former holder of the permit will comply with the provisions of such act relating to the retail sales tax and the regulations of the Tax Commissioner. A seller whose permit has been previously suspended or revoked shall pay the Tax Commissioner a fee of twenty-five dollars for the renewal or issuance of a permit in the event of a first revocation and fifty dollars for renewal after each successive revocation.

(c) The action of the Tax Commissioner may be appealed by the taxpayer in the same manner as a final deficiency determination.

(7) For the purpose of more efficiently securing the payment, collection, and accounting for the sales and use taxes and for the convenience of the retailer in collecting the sales tax, it shall be the duty of the Tax Commissioner to formulate and promulgate appropriate rules and

regulations providing a form and method for the registration of exempt purchases and the documentation of exempt sales.

(8) If any person, firm, corporation, association, or agent thereof presents an exempt sale certificate to the seller for tangible personal property which is purchased by a taxpayer or for a use other than those enumerated in the Nebraska Revenue Act of 1967 as exempted from the computation of sales and use taxes, the Tax Commissioner may, in addition to other penalties provided by law, impose, assess, and collect from the purchaser or the agent thereof a penalty of one hundred dollars or ten times the tax, whichever amount is larger, for each instance of such presentation and misuse of an exempt sale certificate. Such amount shall be in addition to any tax, interest, or penalty otherwise imposed.

Any report, name, or information which is supplied to the Tax Commissioner regarding a violation specified in this section, including the identity of the informer, shall be subject to the pertinent provisions regarding wrongful disclosure in section 77-2711.

Sec. 503. That section 77-2715.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2715.07. (1) There shall be allowed to qualified resident individuals as a credit against the tax imposed by sections 77-2714 to 77-27,123:

(a) A credit equal to the federal credit allowed under section 22 of the Internal Revenue Code;

(b) A credit equal to twenty-five percent of the federal credit allowed under section 21 of the Internal Revenue Code; and

(c) A credit for taxes paid to another state as provided in section 77-2730.

(2) There shall be allowed to all individuals as a credit against the tax imposed by the Nebraska Revenue Act of 1967:

(a) A carryover of the credit for renewable energy source systems as provided under section 66-1047; and

(b) A credit for contributions to certified community betterment programs as provided in the Community Development Assistance Act. Each partner, ~~or~~ each shareholder of an electing subchapter S corporation, or each member of a limited liability company shall report his or her share of the credit in the same manner and proportion as he or she reports the partnership, ~~or~~ subchapter S corporation, or limited liability company income.

Sec. 504. That section 77-2716, Revised Statutes Supplement, 1992, be amended to read as follows:

77-2716. (1) The following adjustments to federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be made for interest or dividends received:

(a) There shall be subtracted interest or dividends received by the owner of obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent includable in gross income for federal income tax purposes but exempt from state income taxes under the laws of the

United States;

(b) There shall be subtracted that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (a) of this subsection as reported to the recipient by the regulated investment company;

(c) There shall be added interest or dividends received by the owner of obligations of the District of Columbia, other states of the United States, or their political subdivisions, authorities, commissions, or instrumentalities to the extent excluded in the computation of gross income for federal income tax purposes except that such interest or dividends shall not be added if received by a corporation which is a regulated investment company;

(d) There shall be added that portion of the total dividends and other income received from a regulated investment company which is attributable to obligations described in subdivision (c) of this subsection and excluded for federal income tax purposes as reported to the recipient by the regulated investment company; and

(e)(i) Any amount subtracted under this subsection shall be reduced by any interest on indebtedness incurred to carry the obligations or securities described in this subsection or the investment in the regulated investment company and by any expenses incurred in the production of interest or dividend income described in this subsection to the extent that such expenses, including amortizable bond premiums, are deductible in determining federal taxable income.

(ii) Any amount added under this subsection shall be reduced by any expenses incurred in the production of such income to the extent disallowed in the computation of federal taxable income.

(2) There shall be allowed a net operating loss derived from or connected with Nebraska sources computed under rules and regulations adopted and promulgated by the Tax Commissioner consistent, to the extent possible under the Nebraska Revenue Act of 1967, with the laws of the United States. For a resident individual, the net operating loss computed on the federal income tax return shall be adjusted by the modifications contained in this section. For a nonresident individual or partial-year resident individual, the net operating loss computed on the federal return shall be adjusted by the modifications contained in this section and any carryovers or carrybacks shall be limited to the portion of the loss derived from or connected with Nebraska sources.

(3) There shall be subtracted from federal adjusted gross income for all taxable years beginning on or after January 1, 1987, the amount of any state income tax refund to the extent such refund was deducted under the Internal Revenue Code, was not allowed in the computation of the tax due under the Nebraska Revenue Act of 1967, and is included in federal adjusted gross income.

(4) Federal adjusted gross income shall be modified to exclude the portion of the income or loss received from a small business

corporation with an election in effect under subchapter S of the Internal Revenue Code or from a limited liability company organized pursuant to the Limited Liability Company Act that is not derived from or connected with Nebraska sources as determined in section 77-2734.01.

(5) There shall be subtracted from federal adjusted gross income or, for corporations and fiduciaries, federal taxable income dividends received or deemed to be received from corporations which are not subject to the Internal Revenue Code.

(6) There shall be subtracted from federal taxable income a portion of the income earned by a corporation subject to the Internal Revenue Code of 1986 that is actually taxed by a foreign country or one of its political subdivisions at a rate in excess of the maximum federal tax rate for corporations. The taxpayer may make the computation for each foreign country or for groups of foreign countries. The portion of the taxes that may be deducted shall be computed in the following manner:

(a) The amount of federal taxable income from operations within a foreign taxing jurisdiction shall be reduced by the amount of taxes actually paid to the foreign jurisdiction that are not deductible solely because the foreign tax credit was elected on the federal income tax return;

(b) The amount of after-tax income shall be divided by one minus the maximum tax rate for corporations in the Internal Revenue Code; and

(c) The result of the calculation in subdivision (b) of this subsection shall be subtracted from the amount of federal taxable income used in subdivision (a) of this subsection. The result of such calculation, if greater than zero, shall be subtracted from federal taxable income.

(7) Federal adjusted gross income shall be modified to exclude any amount repaid by the taxpayer for which a reduction in federal tax is allowed under section 1341(a)(5) of the Internal Revenue Code.

Sec. 505. That section 77-2730, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2730. (1) A resident individual and a resident estate or trust shall be allowed a credit against the income tax otherwise due for the amount of any income tax imposed on him or her for each taxable year commencing on or after January 1, 1983, by another state of the United States or a political subdivision thereof or the District of Columbia on income derived from sources therein and which is also subject to income tax under sections 77-2714 to 77-27,123.

(2) The credit provided under sections 77-2714 to 77-27,135 shall not exceed the proportion of the income tax otherwise due under such sections that the amount of the taxpayer's adjusted gross income or total income derived from sources in the other taxing jurisdiction bears to federal adjusted gross income or total federal income.

(3) For purposes of subsection (1) of this section, a resident individual, estate, or trust shall be deemed to have paid a portion of the income tax imposed by another state, a political subdivision thereof, or the

District of Columbia on the income of any partnership, limited liability company, trust, or estate when such resident individual, estate, or trust is a partner, member, or beneficiary and (a) the income taxed is included in the federal taxable income of the resident individual, estate, or trust and (b) the taxation of such partnership, limited liability company, trust, or estate by the other state is inconsistent with the taxation of such entity under the Internal Revenue Code. The amount of income tax deemed paid by the resident individual, estate, or trust shall be the same percentage of the total tax paid by the entity as the income included in federal taxable income of the resident is to the total taxable income of the entity as computed for the other state.

Sec. 506. That section 77-2733, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2733. (1) The income of a nonresident individual derived from sources within this state shall be the sum of the following:

(a) The net amount of items of income, gain, loss, and deduction entering into his or her federal taxable income which are derived from or connected with sources in this state including (i) his or her distributive share of partnership income and deductions determined under section 77-2729, (ii) his or her share of small business corporation or limited liability company income determined under ~~the provisions of~~ section 77-2734.01, and (iii) his or her share of estate or trust income and deductions determined under section 77-2725; and

(b) The portion of the modifications described in section 77-2716 which relates to income derived from sources in this state, including any modifications attributable to him or her as a partner.

(2) Items of income, gain, loss, and deduction derived from or connected with sources within this state are those items attributable to:

(a) The ownership or disposition of any interest in real or tangible personal property in this state; and

(b) A business, trade, profession, or occupation carried on in this state.

(3) Income from intangible personal property including annuities, dividends, interest, and gains from the disposition of intangible personal property shall constitute income derived from sources within this state only to the extent that such income is from property employed in a business, trade, profession, or occupation carried on in this state.

(4) Deductions with respect to capital losses, net long-term capital gains, and net operating losses shall be based solely on income, gains, losses, and deductions derived from or connected with sources in this state, under rules and regulations to be prescribed by the Tax Commissioner, but otherwise shall be determined in the same manner as the corresponding federal deductions.

(5) If a business, trade, profession, or occupation is carried on partly within and partly without this state, the items of income and deduction derived from or connected with sources within this state shall be determined by apportionment under rules and regulations to be prescribed by the Tax Commissioner.

(6) Compensation paid by the United States for service in the armed forces of the United States performed by a nonresident individual shall not constitute income derived from sources within this state.

(7) Compensation paid by a resident estate or trust for services by a nonresident fiduciary shall constitute income derived from sources within this state.

(8) Compensation paid by a business, trade, or profession shall constitute income derived from sources within this state if:

(a) The individual's service is performed entirely within this state;

(b) The individual's service is performed both within and without this state, but the service performed without this state is incidental to the individual's service within this state;

(c) The individual's service is performed without this state, but the service performed without this state is related to the transactions and activity of the business, trade, or profession carried on within this state; or

(d) Some of the service is performed in this state and (i) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in this state or (ii) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

Sec. 507. That section 77-2733.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2733.01. The income of a partial-year resident individual derived from sources within this state shall be the sum of the following:

(1) All of the income, gain, loss, and deduction which is derived from or connected with sources within this state for a nonresident individual under section 77-2733; and

(2) Any income from intangible personal property, including, but not limited to, annuities, dividends, interest, and gains from the disposition of intangible personal property and any income from a partnership, limited liability company, estate, trust, or electing subchapter S corporation, that is realized while a resident of this state and that is not taxed by another state.

Sec. 508. That section 77-2734.01, Revised Statutes Supplement, 1992, be amended to read as follows:

77-2734.01. (1) Residents of Nebraska who are shareholders of a small business corporation having an election in effect under subchapter S of the Internal Revenue Code or who are members of a limited liability company organized pursuant to the Limited Liability Company Act shall include in their Nebraska taxable income, to the extent includable in federal gross income, their proportionate share of such corporation's or limited liability company's federal income adjusted pursuant to this section. Income or loss from such corporation or limited

liability company conducting a business, trade, profession, or occupation shall be included in the Nebraska taxable income of a shareholder or member who is a resident of this state to the extent of such shareholder's or member's proportionate share of the net income or loss from the conduct of such business, trade, profession, or occupation within this state, determined under subsection (2) of this section. A resident of Nebraska shall include in Nebraska taxable income fair compensation for services rendered to such corporation or limited liability company. Compensation actually paid shall be presumed to be fair unless it is apparent to the Tax Commissioner that such compensation is materially different from fair value for the services rendered or has been manipulated for tax avoidance purposes.

(2) The income of any small business corporation having an election in effect under subchapter S of the Internal Revenue Code or limited liability company organized pursuant to the Limited Liability Company Act that is derived from or connected with Nebraska sources shall be determined in the following manner:

(a) If the small business corporation is a member of a unitary group, the small business corporation shall be deemed to be doing business within this state if any part of its income is derived from transactions with other members of the unitary group doing business within this state, and such corporation shall apportion its income by using the apportionment factor determined for the entire unitary group, including the small business corporation, under sections 77-2734.05 to 77-2734.15; and

(b) If the small business corporation or limited liability company is not a member of a unitary group, it shall apportion its income under sections 77-2734.05 to 77-2734.15.

(3) Nonresidents of Nebraska who are shareholders of such corporations or members of such limited liability companies shall file a Nebraska income tax return and shall include in Nebraska adjusted gross income their proportionate share of the corporation's or limited liability company's Nebraska income as determined under subsection (2) of this section.

(4) The nonresident shareholder or member shall execute and forward to the corporation or limited liability company before the filing of the corporation's or limited liability company's return an agreement which states he or she will file a Nebraska income tax return and pay the tax on the income derived from or connected with sources in this state, and such agreement shall be attached to the corporation's or limited liability company's Nebraska return for such taxable year.

(5) In the absence of the nonresident shareholder's or member's executed agreement being attached to the Nebraska ~~small business corporate~~ return, the corporation or limited liability company shall remit with the return an amount equal to the highest individual income tax rate determined under section 77-2715.02 multiplied by the nonresident shareholder's or member's share of the corporation's or limited liability company's income which was derived from or attributable

to this state. The amount remitted shall be allowed as a credit against the Nebraska income tax liability of the shareholder or member.

(6) The Tax Commissioner may allow a nonresident individual shareholder or member to not file a Nebraska income tax return if the nonresident individual shareholder's or member's only source of Nebraska income was his or her share of the small business corporation's or limited liability company's income which was derived from or attributable to sources within this state, the nonresident did not file an agreement to file a Nebraska income tax return, and the small business corporation or limited liability company has remitted the amount required by subsection (5) of this section on behalf of such nonresident individual shareholder or member. The amount remitted shall be retained in satisfaction of the Nebraska income tax liability of the nonresident individual shareholder or member.

(7) A small business corporation or limited liability company return shall be filed only if one or more of the shareholders of the corporation or members of the limited liability company are not residents of the State of Nebraska or if such corporation or limited liability company has income derived from sources outside this state.

Sec. 509. That section 77-2753, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2753. (1) Every employer and payor maintaining an office or transacting business within this state and making payment of any wages or other payments as defined in subsection (5) of this section which are taxable under the Nebraska Revenue Act of 1967 to any individual shall deduct and withhold from such wages for each payroll period and from such payments a tax computed in such manner as to result, so far as practicable, in withholding from the employee's wages and payments to the payee during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due from the employee or payee under such act with respect to the amount of such wages and payments included in his or her taxable income during the calendar year. The method of determining the amount to be withheld shall be prescribed by rules and regulations of the Tax Commissioner. Such rules and regulations may allow withholding to be computed at a percentage of the federal withholding for gambling winnings or supplemental payments, including bonuses, commissions, overtime pay, and sales awards which are not paid at the same time as other wages.

(2)(a) Every payor who is either (i) making a payment or payments in excess of five thousand dollars or (ii) maintaining an office or transacting business within this state and making a payment or payments related to such business in excess of six hundred dollars, and such payment or payments are for personal services performed or to be performed within this state to a nonresident individual, other than an employee, who is not subject to withholding on such payment under the Internal Revenue Code or a corporation, ~~or~~ partnership, or limited liability company described in subdivision (c) of this subsection, shall be deemed an employer, and the individual performing the personal services

shall be deemed an employee for the purposes of this section. The payor shall deduct and withhold from such payments the percentage of such payments prescribed in subdivision (b) of this subsection. If the individual performing the personal services provides the payor with a statement of the expenses reasonably related to the personal services, the total payment or payments may be reduced by the total expenses before computing the amount to deduct and withhold, except that such reduction shall not be more than fifty percent of such payment or payments.

(b) For any payment or payments for the same service, award, or purse that totals less than twenty-eight thousand dollars, the percentage deducted from such payment or payments pursuant to this subsection shall be three and fifteen-hundredths percent, and for all other payments, the percentage shall be five percent.

(c) For any corporation, ~~or partnership, or limited liability company~~ that receives compensation for personal services in this state and of which all or substantially all of the shareholders, ~~or partners, or members~~ are the individuals performing the personal services, including, but not limited to, individual athletes, entertainers, performers, or public speakers performing such personal services, such compensation shall be deemed wages of the individuals performing the personal services and subject to the income tax imposed on individuals by the Nebraska Revenue Act of 1967.

(d) The withholding required by this subsection shall not apply to any payment to a nonresident alien, corporation, ~~or partnership, or limited liability company~~ if such individual, shareholder, ~~or partner, or member~~ provides the payor with a statement that the income earned is not subject to tax because of a treaty obligation of the United States.

(3) The Tax Commissioner may enter into agreements with the tax departments of other states, which require income tax to be withheld from the payment of wages, salaries, and such other payments, so as to govern the amounts to be withheld from the wages and salaries of and other payments to residents of such states. Such agreements may provide for recognition of anticipated tax credits in determining the amounts to be withheld and, under rules and regulations adopted and promulgated by the Tax Commissioner, may relieve employers and payors in this state from withholding income tax on wages, salaries, and such other payments paid to nonresident employees and payees. The agreements authorized by this subsection shall be subject to the condition that the tax department of such other states grant similar treatment to residents of this state.

(4) The Tax Commissioner shall enter into an agreement with the United States Office of Personnel Management for the withholding of income tax imposed on individuals by the Nebraska Revenue Act of 1967 on civil service annuity payments for those recipients who voluntarily request withholding. The agreement shall be pursuant to 5 U.S.C. 8345 and the rules and regulations adopted and promulgated by the Tax Commissioner.

(5) Wages and other payments subject to withholding shall mean payments that are subject to withholding under the Internal Revenue Code of 1986 and are (a) payments made by employers to employees, except such payments subject to 26 U.S.C. 3405 or 3406, (b) payments of gambling winnings, or (c) pension or annuity payments when the recipient has requested the payor to withhold from such payments.

Sec. 510. That section 77-2761, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2761. An income tax return with respect to the income tax imposed by the provisions of the Nebraska Revenue Act of 1967 shall be made by the following:

(1) Every resident individual who is required to file a federal income tax return for the taxable year;

(2) Every nonresident individual who has income from sources in this state;

(3) Every resident estate or trust which is required to file a federal income tax return except a simple trust not required to file under subsection (2) of section 77-2717;

(4) Every nonresident estate or trust which has taxable income from sources within this state;

(5) Every corporation or any other entity taxed as a corporation under the Internal Revenue Code which is required to file a federal income tax return; except the small business corporations not required to file under subsection (6) of section 77-2734.01;

(6) Every limited liability company having one or more nonresident members or with taxable income derived from sources outside the state except the limited liability companies not required to file under subsection (6) of section 77-2734.01; and

~~(6)~~ (7) Every partnership having one or more nonresident partners or with taxable income derived from sources outside the state.

Sec. 511. That section 77-2790, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-2790. (1) If any part of a deficiency is the result of negligence or intentional disregard of rules and regulations but without intent to defraud, the Tax Commissioner may add to the tax an amount equal to five percent of the deficiency.

(2) If any part of a deficiency is the result of fraud, the Tax Commissioner may add to the tax an amount equal to fifty percent of the deficiency. This amount shall be in lieu of any amount determined under subsection (1) of this section.

(3) If any taxpayer fails to pay all or any part of an installment of any tax due, he or she shall be deemed to have made an underpayment of estimated tax. The Tax Commissioner shall determine the amount of underpayment of estimated tax in accordance with the laws of the United States.

(4) If any employer or payor, without intent to evade or defeat any income tax imposed by the Nebraska Revenue Act of 1967 or

the payment thereof, fails to make a return and pay a tax withheld by him or her at the time required by or under the act, such employer or payor shall be liable for such taxes and shall pay the same together with interest thereon and any addition to tax assessed pursuant to subsection (1) of this section. Such interest and addition to tax shall not be charged to or collected from the employee or payee by the employer or payor. The Tax Commissioner shall have the same rights and powers for the collection of such tax, interest, and addition to tax against such employer or payor as are now prescribed by the act for the collection of income tax against a taxpayer.

(5) If any person required to collect, truthfully account for, and pay over the income tax imposed by the Nebraska Revenue Act of 1967 willfully fails to collect such tax or truthfully account for and pay over such tax or willfully attempts in any manner to evade or defeat the tax or the payment thereof, the Tax Commissioner may, in addition to other penalties provided by law, impose, assess, and collect a penalty equal to the total amount of the tax evaded, not collected, or not accounted for and paid over. No addition to tax under subsection (1) or (2) of this section shall be imposed for any offense to which this subsection applies.

(6) If any person with fraudulent intent fails to pay, or to deduct or withhold and pay, any income tax, to make, render, sign, or certify any return of estimated tax, or to supply any information within the time required, the Tax Commissioner may impose, assess, and collect a penalty of not more than one thousand dollars, in addition to any other amounts required under the income tax provisions of the Nebraska Revenue Act of 1967.

(7) If any person for frivolous or groundless reasons or with the intent to delay or impede the administration of the Nebraska Revenue Act of 1967: (a) Fails to pay over any tax due and owing under such act; (b) fails to file any return required under such act; or (c) files what purports to be a return but which does not contain sufficient information from which to determine the correctness of the self-assessment of tax or which contains information that indicates that the self-assessment of tax is substantially incorrect, such person shall pay a penalty of five hundred dollars for each occurrence. The penalty provided by the subsection shall be in addition to any other penalties provided by law.

(8) Any person who aids, procures, advises, or assists in the preparation of any return, affidavit, refund claim, or other document with the knowledge that its use will result in the material understatement of the tax liability of another person shall, in addition to other penalties provided by law, pay a penalty of one thousand dollars with respect to each separate return or other document.

(a) For the purposes of this subsection, a person furnishing typing, reproducing, or other mechanical assistance shall not be treated as having aided or assisted in the preparation of such document.

(b) A determination of a material deficiency shall not be sufficient to show that a person has aided or assisted in a material

understatement of the tax liability of another person.

(c) The penalty in this subsection shall not be imposed more than once on any person for having aided or assisted in the preparation of documents for the same taxpayer, the same tax, and the same tax period regardless of the number of documents involved.

(d) Such penalty shall apply whether or not the understatement is with the consent of the person authorized to present the return, affidavit, refund claim, or other document.

(9) The additions to the income tax and penalties relating thereto provided by the Nebraska Revenue Act of 1967 shall be paid upon notice and demand and shall be assessed, collected, and paid in the same manner as taxes, and any reference in such act to income tax or the tax imposed by the act shall be deemed also to refer to additions to the tax and penalties provided by this section. For purposes of the deficiency procedures provided in section 77-2776, this subsection shall not apply to:

(a) Any addition to tax under subsection (1) of section 77-2789 except as to that portion attributable to a deficiency;

(b) Any addition to tax for underpayment of estimated tax as provided in subsection (3) of this section; or

(c) Any additional penalty under subsection (6), (7), or (8) of this section.

(10) For purposes of subsections (1) and (2) of this section relating to deficiencies resulting from negligence or fraud, the amount shown as the tax by the taxpayer upon his or her return shall be taken into account in determining the amount of the deficiency only if such return was filed on or before the last day prescribed for the filing of such return determined with regard to any extension of time for such filing.

(11) For purposes of subsections (5) and (6) of this section, the term person shall include an individual, corporation, ~~or~~ partnership, or limited liability company, or an officer or employee of any corporation, including a dissolved corporation, or a member or employee of any partnership or limited liability company, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(12) If any person fails to comply with the reporting or filing requirements of sections 77-2772, 77-2775, and 77-2786 or the rules and regulations adopted and promulgated thereunder, the Tax Commissioner may impose, assess, and collect a penalty against such person for each instance of noncompliance of twenty-five percent of the tax due. Such amount shall be in addition to any other penalty, tax, or interest otherwise imposed by law for such noncompliance.

(13) If any nonresident individual provides false information or statements to an employer or payor regarding the portion of his or her wages or payments that are subject to withholding for this state which if used would result in the amount withheld being less than seventy-five percent of his or her income tax liability on such wages or payments or if any employer or payor uses such information when the employer or payor knows such information is false or maintains records

which show such information is false, the Tax Commissioner may, in addition to other penalties provided by law, impose, assess, and collect from such individual, payor, or employer the penalties provided in subsections (5) and (6) of this section.

Sec. 512. That section 77-27,188.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,188.01. (1) The credit allowed under section 77-27,188 may be used to obtain a refund of sales and use taxes paid or against the income tax liability of the taxpayer.

(2) A claim for the credit may be filed quarterly for refund of the sales and use taxes paid, either directly or indirectly, after the filing of the income tax return for the taxable year in which the credit was first allowed.

(3) The credit may be used to obtain a refund of sales and use taxes paid before the end of the taxable year for which the credit was allowed, except that the amount refunded under this subsection shall not exceed the amount of the sales and use taxes paid, either directly or indirectly, by the taxpayer on the qualifying investment.

(4) For the purposes of subsections (2) and (3) of this section, the taxpayer shall be deemed to have paid indirectly any sales or use taxes paid by a contractor on tangible personal property incorporated into an improvement to real estate built for the taxpayer. The contractor shall certify to the taxpayer the amount of the Nebraska sales and use taxes paid on the materials, or the taxpayer, with the permission of the Tax Commissioner and a certification from the contractor that Nebraska sales and use taxes were paid on all materials, may presume that fifty percent of the cost of the improvement was for materials incorporated on which the tax was paid.

(5) The credit shall be a nonrefundable credit when used against the income tax liability of the taxpayer. The credit shall be applied before any refundable credits are applied. The amount of the credit that may be used in any taxable year shall not exceed fifty percent of the income tax liability of the taxpayer reduced by all other nonrefundable credits except the credits prescribed in section 77-4105.

(6) The credit that is not used against liabilities incurred in the taxable year in which such credit was first allowable may be carried over and used against the liabilities incurred in the five immediately succeeding taxable years. The credits carried over shall be used in the order in which they were first allowed and before any additional credit allowable in a current taxable year may be used.

(7) No claim for refund of sales and use taxes under this section may be filed prior to January 1, 1989.

(8) Credits distributed to a partner, member, shareholder, or beneficiary under section 77-27,194 may only be used against the income tax liability of the partner, member, shareholder, or beneficiary receiving the credits.

Sec. 513. That section 77-27,194, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-27,194. The credit allowed under the Employment Expansion and Investment Incentive Act shall not be transferable, except in the following situations:

(1) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust shall be distributed to the partners, members, shareholders, or beneficiaries in the same manner as income is distributed; and

(2) If a taxpayer operating a qualifying business and allowed a credit under section 77-27,188 dies and there is credit remaining after the filing of the final return for the taxpayer, the personal representative shall determine the distribution of the credit or any remaining carryover with the initial fiduciary return filed for the estate. The determination of the distribution of credit may be changed only after obtaining the permission of the Tax Commissioner.

Sec. 514. That section 77-3001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3001. ~~As used in sections 77-3001 to 77-3011~~ For purposes of the Mechanical Amusement Device Tax Act, unless the context otherwise requires:

(1) Person shall mean and include an individual, partnership, limited liability company, society, association, joint-stock company, corporation, estate, receiver, lessee, trustee, assignee, referee, or ~~any~~ other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals;

(2) Mechanical amusement device shall mean and include any machine which, upon insertion of a coin, or substitute therefor, operates or may be operated or used for a game, contest or amusement of any description, such as, by way of example, but not by way of limitation, pinball games, shuffleboard, bowling games, radio-ray rifle games, baseball, football, racing, boxing games, and coin-operated pool tables. Mechanical ~~and mechanical~~ amusement device shall also include game and draw lotteries and coin-operated automatic musical devices. The term ~~;~~ ~~PROVIDED, that it~~ shall not mean and include vending machines which dispense tangible personal property, devices located in private homes for private use, or devices which are mechanically constructed in a manner that would render their operation illegal under the laws of the State of Nebraska;

(3) Operator shall mean and include any person who operates a place of business in which a machine or device owned by him or her is physically located or any person who places and who either directly or indirectly controls or manages any machine or device;

(4) Distributor shall mean and include any person who sells, leases, or delivers possession or custody of a machine or mechanical device to operators thereof for a consideration either directly or indirectly received;

(5) Whenever in ~~sections 77-3001 to 77-3011~~ the act, the words machine or device are used, they refer to mechanical amusement

device; and

(6) Whenever in ~~sections 77-3001 to 77-3014~~ the act, the words machine, device, person, operator, or distributor are used, the words in the singular include the plural; and in the plural include the singular.

Sec. 515. That section 77-3101, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-3101. As used in sections 77-3101 to 77-3112, unless the context otherwise requires:

(1) Contractor shall include individuals, firms, partnerships, limited liability companies, corporations, or other associations of persons engaged in the business of the construction, alteration, repairing, dismantling, or demolition of buildings, roads, bridges, viaducts, sewers, water and gas mains, streets, disposal plants, water filters, tanks and towers, airports, dams, levees and canals, water wells, pipelines, transmission and power lines, and every other type of structure, project, development, or improvement coming within the definition of real property and personal property, including such construction, repairing, or alteration of such property to be held either for sale or rental, and further including all subcontractors; and

(2) Nonresident contractor shall mean a contractor who neither is domiciled in nor maintains a permanent place of business in this state or who, being so domiciled or maintaining such permanent place of residence, spends in the aggregate less than six months of the year in this state.

Sec. 516. That section 77-4009, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-4009. (1) ~~Commencing on or after January 1, 1988,~~ each Each first owner of tobacco products to be sold in this state shall be licensed by the Tax Commissioner. Every application for such license shall be made on a form prescribed by the Tax Commissioner. The application shall include: (a) The name and address of the applicant or, if the applicant is a firm, partnership, limited liability company, or association, the name and address of each of its members or, if the applicant is a corporation, the name and address of each of its officers and the address of its principal place of business; (b) the location of the place of business to be licensed; and (c) such other information as the Tax Commissioner may require for the purpose of administering the Tobacco Products Tax Act.

(2) A person outside of this state who ships or transports tobacco products to any person in this state to be sold in this state may make application for a license and be granted such a license by the Tax Commissioner. If a license is granted, such person shall be subject to the Tobacco Products Tax Act and shall be entitled to act as a licensee. A person outside this state who receives a license shall have established sufficient contact with this state for the exercise of personal jurisdiction over the person in any matter or issue arising under the act.

Sec. 517. That section 77-4103, Reissue Revised Statutes

of Nebraska, 1943, be amended to read as follows:

77-4103. For purposes of the Employment and Investment Growth Act, unless the context otherwise requires:

(1) Any term shall have the same meaning as used in Chapter 77, article 27;

(2) Base year shall mean the year immediately preceding the year during which the application was submitted;

(3) Base-year employee shall mean any individual who was employed in Nebraska and subject to the Nebraska income tax on compensation received from the taxpayer or its predecessors during the base year and who is employed at the project;

(4) Compensation shall mean the wages and other payments subject to withholding for federal income tax purposes;

(5) Entitlement period shall mean the year during which the required increases in employment and investment were met or exceeded, and the next six years;

(6) Equivalent employees shall mean the number of employees computed by dividing the total hours paid in a year by the product of forty times the number of weeks in a year;

(7) Investment shall mean the value of qualified property incorporated into or used at the project. For qualified property owned by the taxpayer, the value shall be the original cost of the property. For qualified property rented by the taxpayer, the average net annual rent shall be multiplied by the number of years of the lease for which the taxpayer was originally bound, not to exceed ten years or the end of the third year after the entitlement period, whichever is earlier. The rental of land included in and incidental to the leasing of a building shall not be excluded from the computation;

(8) Motor vehicle shall mean any motor vehicle, trailer, or semitrailer as defined in section 60-301 and subject to licensing for operation on the highways;

(9) Nebraska employee shall mean an individual who is either a resident or partial-year resident of Nebraska;

(10) Number of new employees shall mean the excess of the number of equivalent employees employed at the project during a year over the number of equivalent employees during the base year;

(11) Qualified business shall mean any business engaged in the activities listed in subdivisions (b)(i) ~~to~~ through (v) of this subdivision or in the storage, warehousing, distribution, transportation, or sale of tangible personal property. Qualified business shall not include any business activity in which eighty percent or more of the total sales are sales to the ultimate consumer of food prepared for immediate consumption or are sales to the ultimate consumer of tangible personal property which is not (a) assembled, fabricated, manufactured, or processed by the taxpayer or (b) used by the purchaser in any of the following activities:

(i) The conducting of research, development, or testing for scientific, agricultural, animal husbandry, food product, or industrial purposes;

(ii) The performance of data processing, telecommunication, insurance, or financial services. Financial services for purposes of this subdivision shall only include financial services provided by any financial institution subject to tax under Chapter 77, article 38, or any person or entity licensed by the Department of Banking and Finance or the Securities and Exchange Commission;

(iii) The assembly, fabrication, manufacture, or processing of tangible personal property;

(iv) The administrative management of any activities, including headquarter facilities relating to such activities; or

(v) Any combination of the activities listed in this subdivision; ~~(11)~~;

(12) Qualified property shall mean any tangible property of a type subject to depreciation, amortization, or other recovery under the Internal Revenue Code of 1986, or the components of such property, that will be located and used at the project. Qualified property shall not include (a) aircraft, barges, motor vehicles, railroad rolling stock, or watercraft or (b) property that is rented by the taxpayer qualifying under the Employment and Investment Growth Act to another person;

(13) Related persons shall mean any corporations which are members of the same unitary group or any persons who are considered to be related persons under either section 267(B) and (C) or section 707(B) of the Internal Revenue Code of 1986;

(14) Taxpayer shall mean any person subject to the sales and use taxes and either an income tax imposed by the Nebraska Revenue Act of 1967 or a franchise tax under Chapter 77, article 38, any corporation that is a member of the same unitary group which is subject to such taxes, and any partnership, limited liability company, S corporation, or joint venture when the partners, shareholders, or members are subject to such taxes; and

(15) Year shall mean the taxable year of the taxpayer.

Sec. 518. That section 77-4108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-4108. (1) The incentives allowed under the Employment and Investment Growth Act shall not be transferable except in the following situations:

(a) Any credit allowable to a partnership, a limited liability company, a subchapter S corporation, or an estate or trust may be distributed to the partners, members, shareholders, or beneficiaries in the same manner as income is distributed for use against their income tax liabilities, and such partners, members, shareholders, or beneficiaries shall be deemed to have made an underpayment of their income taxes for any recapture required by section 77-4107; and

(b) The incentives previously allowed and the future allowance of incentives may be transferred when a project covered by an agreement is transferred in its entirety by sale or lease to another taxpayer or in an acquisition of assets qualifying under section 381 of the Internal Revenue Code of 1986.

(2) The acquiring taxpayer, as of the date of notification of the Tax Commissioner of the completed transfer, shall be entitled to any unused credits and to any future incentives allowable under the act.

(3) The acquiring taxpayer shall be liable for any recapture that becomes due after the date of the transfer for the repayment of any benefits received either before or after the transfer.

(4) If a taxpayer operating a project and allowed a credit under the act dies and there is a credit remaining after the filing of the final return for the taxpayer, the personal representative shall determine the distribution of the credit or any remaining carryover with the initial fiduciary return filed for the estate. The determination of the distribution of the credit may be changed only after obtaining the permission of the Tax Commissioner.

Sec. 519. That section 79-2803, Revised Statutes Supplement, 1992, be amended to read as follows:

79-2803. For purposes of the Private Postsecondary Career School Act:

(1) Agent shall mean any person who owns any interest in, is employed by, or regularly represents for remuneration a private postsecondary career school located within or outside this state who (a) by solicitation made in this state enrolls or seeks to enroll a resident of this state for education offered by such school, (b) offers to award educational credentials for remuneration on behalf of any such school, or (c) holds himself or herself out to residents of this state as representing such a school;

(2) Agent's permit shall mean a nontransferable, written authorization issued to a natural person by the department which allows that person to solicit or enroll any resident of this state for education in a private postsecondary career school;

(3) Authorization to operate shall mean approval by the department to operate a private postsecondary career school in this state;

(4) Board shall mean the State Board of Education;

(5) Branch facility shall mean a facility (a) which is separate from a principal facility, (b) which offers a full program and full student services, (c) which is under the supervision of an onsite director or administrator, and (d)(i) the ownership, management, and control of which are the same as the principal facility, which principal facility is responsible for the delivery of all services, or (ii) at which education is offered by a franchisee of a franchisor authorized to operate as a private postsecondary career school pursuant to the act if the franchisor establishes the course curriculum and guidelines for teaching at the franchisee's facility;

(6) Commissioner shall mean the Commissioner of Education;

(7) Course of study or instruction shall mean a program of study, training, or instruction consisting of a series of lessons or classes which are coordinated as a curriculum or program of instruction to prepare or qualify individuals or improve or upgrade the skills needed for

employment, career opportunities, or any specific occupation;

(8) Department shall mean the State Department of Education;

(9) Education or educational services shall mean any class, course, or program of occupational training, instruction, or study;

(10) Entity shall mean any individual, company, firm, society, group, association, partnership, limited liability company, corporation, trust, or other person;

(11) Grant, with respect to educational credentials, shall mean award, sell, confer, bestow, or give;

(12) Home study school shall mean a school which provides correspondence lesson materials prepared in a sequential and logical order for study and completion by a student on his or her own, with completed lessons returned by the student to the school for evaluation and subsequent return to the student, including those schools which offer instruction by home study in combination with in-residence training;

(13) Offer shall include, in addition to its usual meaning, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform a described act;

(14) Out-of-state school shall mean any school which has its place of instruction or its principal location outside the boundaries of this state and which offers or conducts courses of instruction or subjects on the premises of the school, or provides correspondence or home study lesson materials, or offers or provides Nebraska students with courses of instruction or subjects through activities engaged in or conducted outside the boundaries of Nebraska;

(15) Principal facility or main school shall mean a private postsecondary career school located in the State of Nebraska;

(16) Private postsecondary career school shall mean any organization or business enterprise which is not specifically exempt under section 79-2804, which offers courses or subjects for which tuition is charged, and at the place of business of which a course of instruction is available through classroom instruction, home study, or both to a person for the purpose of training, preparing, or improving the person for an occupation even though the organization's or business enterprise's principal efforts may not be exclusively educational in nature;

(17) Resident school shall mean any school offering courses of instruction to its students on the school's premises; and

(18) Separate classroom shall mean a supplemental training space (a) which is located near the main school for the purpose of expanding the educational offerings or for training an overflow of students who cannot be accommodated at the main school, (b) which is close enough to the main school to assure immediate supervision and administration of all essential student services by the main school and ready access by students to the student services available, and (c) in which the only required onsite service is teaching.

Sec. 520. That section 79-2925, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-2925. The authority may charge and collect rates, rents, fees, and other charges for the use of and for the services furnished or to be furnished by a project or any portion thereof and contract with any person, partnership, limited liability company, association, or corporation or other body public or private, except that the authority shall have no jurisdiction over rates, rents, fees, and charges established by a private institution of higher education for its students other than to require that such rates, rents, fees, and charges by such institution be sufficient to discharge such institution's obligation to the authority.

Sec. 521. That section 81-149, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-149. The Purchasing Agent shall have had at least three years practical experience, in the ten years immediately preceding his appointment, as an executive in a regularly organized purchasing department of some branch of government, ~~either~~ municipal, state, or federal, or of some private business firm or corporation. He or she shall not be, at any time during his or her term of office, connected, interested, or otherwise concerned, directly or indirectly, with any person, partnership, limited liability company, firm, association, corporation, or other vendor, agent, or intermediary, from or through whom any purchases; or contracts for purchases; shall be made by him or her during his or her incumbency in office.

Sec. 522. That section 81-150, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-150. Before entering upon the discharge of his or her duties, the Purchasing Agent shall take and subscribe an oath, to be filed in the office of the Secretary of State, to the effect:

(1) That he or she will support the Constitution of the United States and the Constitution of ~~the State of~~ Nebraska;

(2) That he or she will faithfully and impartially discharge the duties of his or her office; and

(3) That he or she is not then and will not be, at any time during his or her term of office, connected, interested, or otherwise concerned, directly or indirectly, with any person, partnership, limited liability company, firm, association, corporation, or other vendor, agent, or intermediary from or through whom any purchases or contracts for purchase, shall be made by him or her during his or her incumbency in office.

Sec. 523. That section 81-161.05, Revised Statutes Supplement, 1992, be amended to read as follows:

81-161.05. Neither the materiel division nor any employee under its direction shall be financially interested; or have any beneficial personal interest, directly or indirectly, in the purchase or leasing of any personal property nor in any firm, partnership, limited liability company, corporation, or association furnishing personal property. No such person shall receive or accept directly or indirectly from any person, firm, limited liability company, or corporation submitting any bid or to whom a contract may be awarded; by rebate, gift, or otherwise, any money or

other thing of value whatsoever; or any promise, obligation, or contract for future reward, or compensation. Any person who violates ~~the provisions of~~ this section shall be guilty of a Class IV felony and shall be subject to forfeiture of his or her office or position.

Sec. 524. That section 81-2,147.01, Revised Statutes Supplement, 1992, be amended to read as follows:

81-2,147.01. As used in the Nebraska Seed Law:

(1) Advertisement shall mean all representations, other than those on the label, disseminated in any manner or by any means relating to seed, including farm grain represented as suitable for sowing, within the scope of the Nebraska Seed Law;

(2) Agricultural seed shall include the seeds of grass, forage, cereal, oil and fiber crops, and lawn and mixtures of such seeds and any other kinds of seed commonly recognized within this state as agricultural seeds and may include the seed of any plant that is being used as an agricultural crop when the Director of Agriculture establishes in rules and regulations that such seed is being used as agricultural seed;

(3) Blend shall mean seeds consisting of more than one variety of a kind, each in excess of five percent by weight of the whole;

(4) Brand shall mean a word, name, symbol, number, or design to identify seed of one person to distinguish it from seed of another person;

(5) Certifying agency shall mean (a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure genetic purity and identity of the seed certified or (b) an agency of a foreign country which is determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by certifying agencies under subdivision (a) of this subdivision;

(6) Conditioning shall mean drying, cleaning, scarifying, or other operations which could change the purity or germination of the seed and require the seed lot or any definite amount of seed to be retested to determine the label information;

(7) Director shall mean the Director of Agriculture or his or her designated employee or representative or authorized agent;

(8) Dormant seed shall mean viable seeds, other than hard seeds, which fail to germinate when provided the specified germination conditions for the kind of seed in question;

(9) Flower seed shall include seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known and sold under the name of flower or wildflower seeds in this state;

(10) Germination shall mean the emergence and development from the seed embryo of those essential structures which for the kind of seed in question are indicative of the ability to produce a normal plant under favorable conditions;

(11) Hard seed shall mean seeds which remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat;

(12) Hybrid shall mean the first generation seed of a cross produced by controlling the pollination and by combining (a) two or more inbred lines, (b) one inbred or a single cross with an open-pollinated variety, or (c) two varieties or species except open-pollinated varieties of corn (*Zea mays*). The second generation and subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names;

(13) Inert matter shall mean all matter not seed which shall include broken seeds, sterile florets, chaff, fungus bodies, and stones as established by rules and regulations;

(14) Kind shall mean one or more related species or subspecies which singly or collectively are known by one common name, such as corn, oats, alfalfa, and timothy;

(15) Labeling shall include all labels and other written, printed, stamped, or graphic representations, in any form whatsoever, accompanying or pertaining to any seed, whether in bulk or in containers, and shall include representations on invoices;

(16) Lot shall mean a definite quantity of seed in containers or bulk identified by a lot number or other mark, every portion of which is uniform within recognized tolerances for the factors that appear in the labeling;

(17) Mixture, mix, or mixed shall mean seeds consisting of more than one kind, each present in excess of five percent by weight of the whole;

(18) Noxious weed seeds shall mean prohibited noxious weed seed and restricted noxious weed seed, except that the director may by rule or regulation add to or subtract from the list of seed included under either category whenever he or she finds that such additions are within or subtractions are not within the respective categories.

(a) Prohibited noxious weed seeds shall mean the seeds of plants which are highly destructive and difficult to control in this state by ordinary good cultural practice, the use of herbicides, or both as well as certain weeds, including field bindweed (*Convolvulus arvensis*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), hoary cress (*Cardaria draba*), Russian knapweed (*Centaurea repens*), spotted knapweed (*Centaurea maculosa*), diffuse knapweed (*Centaurea diffusa*), johnsongrass (*Sorghum halepense*), musk thistle (*Carduus nutans*), plumeless thistle (*Carduus acanthoides*), Scotch thistle (*Onopordum acanthium*), morning glory (*Ipomoea purpurea*) when found in field crop seeds, skeletonleaf bursage (*Ambrosia discolor*), woollyleaf bursage (*Ambrosia tomentosa*), serrated tussock (*Nassella trichotoma*), and puncturevine (*Tribulus terrestris*).

(b) Restricted noxious weed seeds shall mean the seeds of such plants which are objectionable in fields, lawns, and gardens of this state, but can be controlled by good cultural practices, the use of

herbicides, or both and include dodder (*Cuscuta* spp.), wild mustard (*Brassica* spp.), dock (*Rumex* spp.), quackgrass (*Elytrigia repens*), pennycress (*Thlaspi arvense*), purple loosertrife (*Lythrum salicaria*), and horsenettle (*Solanum carolinense*);

(19) Origin shall mean a foreign country or designated portion thereof, a state, the District of Columbia, Puerto Rico, or a possession of the United States, where the seed was grown;

(20) Other crop seed shall mean seed of plants grown as crops, other than the kind or variety included in the pure seed, as established by rules and regulations;

(21) Person shall include any corporation, company, society, association, body politic and corporate, community, individual, partnership, limited liability company, or joint-stock company or the public generally;

(22) Pure live seed shall mean the product of the percent of germination plus percent of hard or dormant seed multiplied by the percent of pure seed divided by one hundred. The result shall be expressed as a whole number;

(23) Pure seed shall mean seed exclusive of inert matter and all other seeds not of the seed being considered as established by rules and regulations;

(24) Record shall mean any and all information which relates to the origin, treatment, germination, purity, kind, and variety of each lot or definite amount of seed handled in this state. Such information shall include seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations;

(25) Sale in any of its variant forms shall mean sale, to barter, exchange, offer for sale, expose for sale, move, or transport, in any of their variant forms, or otherwise supplying;

(26) Screenings shall mean the results of the process which removes, in any way, weed seed, inert matter, and other materials from any agricultural, vegetable, or flower seed in any kind of cleaning process;

(27) Seizure shall mean a legal process carried out by court order against a definite amount or lot of seed;

(28) Stop-sale order shall mean an administrative order provided by law restraining the sale, use, disposition, and movement of a definite amount or lot of seed;

(29) Tetrazolium (TZ) test shall mean a type of test in which chemicals are used to produce differential staining of strong, weak, and dead tissues, which is indicative of the potential viability of seeds;

(30) Treated shall mean that the seed has been given an application of a substance or subjected to a process or coating for which a claim is made or which is designed to reduce, control, or repel disease organisms, insects, or other pests which attack seeds or seedlings growing therefrom;

(31) Variety shall mean a subdivision of a kind which is distinct, uniform, and stable. For purposes of this subdivision: (a) Distinct

shall mean that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; (b) uniform shall mean that variations in essential and distinctive characteristics are describable; and (c) stable shall mean that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties;

(32) Vegetable seed shall include the seeds of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seeds in this state; and

(33) Weed seed shall include the seeds of any plant generally recognized as a weed within this state as established in rules and regulations and shall include the noxious weed seeds.

Sec. 525. That section 81-2,162.02, Revised Statutes Supplement, 1992, be amended to read as follows:

81-2,162.02. For purposes of the Nebraska Commercial Fertilizer and Soil Conditioner Act, unless the context otherwise requires:

(1) Director shall mean the Director of Agriculture or his or her duly authorized agent;

(2) Department shall mean the Department of Agriculture;

(3) Commercial fertilizer shall mean any formula or product distributed for further distribution or ultimate use as a plant nutrient, intended to promote plant growth, containing one or more plant nutrients recognized by the Association of American Plant Food Control Officials in its official publication. The term commercial fertilizer shall not be deemed to include unmanipulated animal and vegetable manures but shall be deemed to include both finished products and fertilizer ingredients capable of being used in the formulation of a finished product;

(4) Bulk shall mean nonpackaged;

(5) Custom-blended product shall mean any individually compounded commercial fertilizer or soil conditioner mixed, blended, offered for sale, or sold in Nebraska to a person's specifications, when such person is the ultimate consumer, if the ingredients used in such product which are subject to the registration requirements of section 81-2,162.03 have been so registered;

(6) Distribute shall mean to offer for sale, sell, barter, or otherwise supply commercial fertilizers or soil conditioners;

(7) Fineness shall mean the percentage of weight of the material which will pass United States standard sieves of specified sizes;

(8) Label shall mean a display of written, printed, or other graphic matter upon the container in which a commercial fertilizer or soil conditioner is distributed, or a statement accompanying such product;

(9) Labeling shall mean the label and all other written, printed, or graphic matter accompanying the commercial fertilizer or soil conditioner at any time or to which reference is made on the label;

(10) Official sample shall mean any sample of commercial fertilizer or soil conditioner taken by the director or his or her agent;

(11) Product shall mean both commercial fertilizers and

soil conditioners;

(12) Ton shall mean a net weight of two thousand pounds avoirdupois;

(13) Percent or percentage shall mean the percentage by weight;

(14) Person shall include individual, cooperative, partnership, limited liability company, association, firm, and corporation;

(15) Sell or sale shall include exchange;

(16) Soil conditioner shall mean any formula or product distributed, except unmanipulated animal and vegetable manures, which, when added to the soil, is intended to (a) change the physical condition of the soil or (b) produce a favorable growth, yield, or quality of crops or other soil characteristics but shall not mean a commercial fertilizer or agricultural liming material; and

(17) Specialty product shall mean a product for nonfarm use.

Sec. 526. That section 81-2,270, Revised Statutes Supplement, 1992, be amended to read as follows:

81-2,270. (1) No person shall operate: (a) A food service establishment; (b) a mobile food unit or pushcart; (c) a temporary food service establishment; (d) a food processing establishment; (e) a food storage establishment; (f) a retail food store; (g) a salvage processing plant; (h) as a salvage distributor; or (i) one or more vending machines other than controlled location vending machines, as defined in the Food Vending Code, without a valid permit which sets forth the types of operation occurring within the establishment.

(2) Application for a permit shall be made to the director on forms prescribed and furnished by the department. Such application shall include the applicant's full name and mailing address, the names and addresses of any partners, members, or corporate officers, the name and address of the person authorized by the applicant to receive the notices and orders of the department as provided in the Nebraska Pure Food Act, whether the applicant is an individual, partnership, limited liability company, corporation, or other legal entity, the location and type of proposed establishment or operation, and the signature of the applicant. Application for a permit shall be made prior to the operation of a food establishment or vending machines and shall be accompanied by an initial permit fee of fifty dollars and an initial inspection fee in the same amount as is annually required pursuant to subsection (3) of this section if inspections are required to be done by the department. If the food establishment or vending machine operation has been in operation prior to applying for a permit, the applicant shall pay an additional fee of fifty dollars.

(3) Payment of the initial permit fee, the initial inspection fee, and the fee for failing to apply for a permit prior to operation shall not preclude payment of the annual inspection fees due on August 1 of each year. Except as provided in subsections (6) through (9) of this section and subsection (1) of section 81-2,281, permitholders shall pay

annual inspection fees on or before August 1 of each year as follows:

(a) Food service establishments, nontemporary, fifty dollars plus fifteen dollars for each separate and distinct food preparation area within the establishment other than the first such area;

(b) Mobile food units or pushcarts, fifty dollars plus five dollars per unit or pushcart;

(c) Temporary food service establishment, fifty dollars plus fifteen dollars for each additional food handling operation;

(d) Food processing establishment, fifty dollars plus fifteen dollars for each additional food handling operation within the establishment;

(e) Food storage establishment, fifty dollars plus fifteen dollars for each additional food handling operation within the establishment;

(f) Retail food store, fifty dollars plus fifteen dollars for each food preparation area within the store except the meat processing and produce handling areas;

(g) Salvage processing plant, fifty dollars plus fifteen dollars for each additional food handling operation within the establishment;

(h) Salvage distributor, fifty dollars plus fifteen dollars for each additional food handling operation within the establishment; and

(i) One to ten vending machines, ten dollars; eleven to twenty vending machines, twenty dollars; twenty-one to thirty vending machines, thirty dollars; thirty-one to forty vending machines, forty dollars; and over forty vending machines, fifty dollars.

(4) Whenever an establishment is engaged in more than one of the food handling activities listed under subsection (3) of this section, the inspection fee charged shall be based upon the primary activity conducted within the establishment as determined by the department.

(5) The department may impose a penalty for inspection fees which are more than one month delinquent. Such penalty may not exceed twenty percent of the fee for each month of delinquency.

(6) Educational institutions, health care facilities, nursing homes, and governmental organizations operating any type of food service establishment other than a mobile food unit or pushcart shall be exempt from the requirements in subsections (1) through (5) of this section.

(7) Persons whose primary food-related business activity is determined by the department to be egg handling within the meaning of the Nebraska Graded Egg Act and who are validly licensed and paying fees pursuant to such act shall be exempt from the permit and inspection fee requirements of the Nebraska Pure Food Act.

(8) Persons holding permits or licenses and regulated under the Nebraska Manufacturing Milk Act or the Nebraska Pasteurized Milk Law and egg handlers licensed and regulated under the Nebraska Graded Egg Act shall be exempt from the provisions of the Nebraska Pure Food Act.

(9) Religious, charitable, and fraternal organizations operating any type of temporary food service establishment, mobile food

unit, or pushcart shall be exempt from the requirements of subsections (1) through (5) of this section. Any such organization operating any nontemporary food service establishment prior to July 1, 1985, shall be exempt from the requirements of subsection (2) of this section.

Sec. 527. That section 81-542, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-542. ~~As used in this act~~ For purposes of the Nebraska Natural Gas Pipeline Safety Act of 1969, unless the context otherwise requires:

(1) The Natural Gas Pipeline Safety Act of 1968 of the United States shall mean Public Law 90-481, 82 Stat. 720, 90th Congress, S. 1166, enacted August 12, 1968;

(2) State Fire Marshal shall mean the officer appointed pursuant to section 81-501.01;

(3) Person shall mean any individual, firm, joint venture, partnership, limited liability company, corporation, association, municipality, cooperative association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof;

(4) Gas shall mean natural gas, flammable gas, or gas which is toxic or corrosive; and which is transported in a gaseous form and not in a liquid form;

(5) Transportation of gas shall mean the gathering, transmission, or distribution of gas by pipeline or its storage; ; except that it shall not include any such transportation of gas which is subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States or the Interstate Commerce Commission under the Interstate Commerce Act; or the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the State Fire Marshal may define as a nonrural area; and

(6) Pipeline facilities shall include, without limitation, new and existing pipe rights-of-way and any equipment facility or building used in the transportation of gas or the treatment of gas during the course of transportation but rights-of-way as used in ~~this act~~ the Nebraska Natural Gas Pipeline Safety Act of 1969 does not authorize the State Fire Marshal to prescribe the location or routing of any pipeline facility. Pipeline facilities shall not include any facilities subject to the jurisdiction of the Federal Power Commission under the Natural Gas Act of the United States or the Interstate Commerce Commission under the Interstate Commerce Act.

Sec. 528. That section 81-854, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-854. A firm, partnership, limited liability company, corporation, or joint-stock association may engage in the practice of professional engineering or architecture in this state if such practice is carried on by persons registered under sections 81-839 to 81-856.

Sec. 529. That section 81-885.01, Revised Statutes Supplement, 1992, be amended to read as follows:

81-885.01. For purposes of the Nebraska Real Estate License Act, unless the context otherwise requires:

(1) Real estate shall mean and include condominiums and leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold, or nonfreehold, and whether the real estate is situated in this state or elsewhere;

(2) Broker shall mean any person who, for a fee, a commission, or any other valuable consideration or with the intent or expectation of receiving the same from another, negotiates or attempts to negotiate the listing, sale, purchase, exchange, rent, lease, or option for any real estate or improvements thereon, or assists in procuring prospects or holds himself or herself out as a referral agent for the purpose of securing prospects for the listing, sale, purchase, exchange, renting, leasing, or optioning of any real estate or collects rents or attempts to collect rents, or holds himself or herself out as engaged in any of the foregoing. Broker shall also include any person: (a) Employed by or on behalf of the owner or owners of lots or other parcels of real estate at a salary, fee, or commission or any other valuable consideration to sell such real estate or any part thereof in lots or parcels or make other disposition thereof; (b) who engages in the business of charging an advance fee in connection with any contract whereby he or she undertakes primarily to promote the sale of real estate either through its listing in a publication issued primarily for such purpose or for referral of information concerning such real estate to brokers or both; (c) who auctions, offers, attempts, or agrees to auction real estate; or (d) who buys or offers to buy or sell or otherwise deals in options to buy real estate;

(3) Associate broker shall mean a person who has a broker's license and who is employed by another broker to participate in any activity described in subdivision (2) of this section;

(4) Designated broker shall mean an individual holding a broker's license appointed by a partnership, limited liability company, or corporation engaged in the real estate brokerage business to be responsible for the acts of the partnership, limited liability company, or corporation and to whom the partners, members, or board of directors has subordinated full authority to conduct the real estate activities of the partnership, limited liability company, or corporation;

(5) Inactive broker shall mean an associate broker whose license has been returned to the commission by the licensee's broker, a broker who has requested the commission to place the license on inactive status, or a new licensee who has failed to designate an employing broker or have the license issued as an individual broker;

(6) Salesperson shall mean any person, other than an associate broker, who is employed by a broker to participate in any activity described in subdivision (2) of this section;

(7) Inactive salesperson shall mean a salesperson whose license has been returned to the commission by the licensee's broker, a

salesperson who has requested the commission to place the license on inactive status, or a new licensee who has failed to designate an employing broker;

(8) Person shall mean and include individuals, corporations, ~~and~~ partnerships, and limited liability companies, except that when referring to a person licensed under the act, it shall mean an individual;

(9) Subdivision or subdivided land shall mean any real estate offered for sale and which has been registered under the Interstate Land Sales Full Disclosure Act, 82 Stat. 590 and following, 15 U.S.C. 1701 and following, as such act existed on January 1, 1973, or real estate located out of this state which is divided or proposed to be divided into twenty-five or more lots, parcels, or units;

(10) Subdivider shall mean any person who causes land to be subdivided into a subdivision for himself, herself, or others or who undertakes to develop a subdivision but shall not include a public agency or officer authorized by law to create subdivisions;

(11) Purchaser shall mean a person who acquires or attempts to acquire or succeeds to an interest in land; and

(12) Commission shall mean the State Real Estate Commission.

Sec. 530. That section 81-885.04, Revised Statutes Supplement, 1992, be amended to read as follows:

81-885.04. Except as to the requirements with respect to the subdivision of land, the Nebraska Real Estate License Act shall not apply to:

(1) Any person, partnership, limited liability company, or corporation who as owner or lessor shall perform any of the acts described in subdivision (2) of section 81-885.01 with reference to property owned or leased by him, her, or it or to the regular employees thereof, with respect to the property so owned or leased, when such acts are performed in the regular course of or as an incident to the management, sale, or other disposition of such property and the investment therein, except that such regular employees shall not perform any of the acts described in such subdivision in connection with a vocation of selling or leasing any real estate or the improvements thereon;

(2) An attorney in fact under a duly executed power of attorney to convey real estate from the owner or lessor or the services rendered by any attorney at law in the performance of his or her duty as such attorney at law;

(3) Any person acting as receiver, trustee in bankruptcy, personal representative, conservator, or guardian or while acting under a court order or under the authority of a will or of a trust instrument or as a witness in any judicial proceeding or other proceeding conducted by the state or any governmental subdivision or agency;

(4) Any person acting as the resident manager of an apartment building, duplex, apartment complex, or court, when such resident manager resides on the premises and is engaged in the leasing of

property in connection with his or her employment, or any employee, parent, child, brother, or sister of the owner or any employee of a licensed broker who manages rental property for the owner of such property;

(5) Any officer or employee of a federal agency in the conduct of his or her official duties;

(6) Any officer or employee of the state government or any political subdivision thereof performing his or her official duties for real estate tax purposes or performing his or her official duties related to the acquisition of any interest in real property when the interest is being acquired for a public purpose;

(7) Any person or any employee thereof who renders an estimate or opinion of value of real estate or any interest therein when such estimate or opinion of value is for the purpose of real estate taxation; or

(8) Any person who, for himself or herself or for others, purchases or sells oil, gas, or mineral leases or performs any activities related to the purchase or sale of such leases.

Sec. 531. That section 81-885.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.06. No action or suit shall be instituted, nor recovery be had, in any court of this state by any person for compensation for any act done or service rendered, the doing or rendering of which is prohibited under the ~~provisions of sections 81-885.01 to 81-885.48;~~ Nebraska Real Estate License Act to other than licensed brokers, licensed associate brokers, or licensed salespersons. A licensed broker may bring an action in the name of a partnership, limited liability company, or corporation if the broker operates under ~~either~~ any of such business organizations.

Sec. 532. That section 81-885.11, Revised Statutes Supplement, 1992, be amended to read as follows:

81-885.11. Any person desiring to act as a real estate broker or real estate salesperson shall file an application for a license with the commission. The application shall be in such form and detail as the commission shall prescribe, setting forth the following:

(1) The name and address of the applicant or the name under which he or she intends to conduct business and, if the applicant conducts business through a partnership, the name and residence address of each member thereof, the name of the partnership's designated broker, and the name under which the partnership business is to be conducted, if the applicant conducts business through a limited liability company, the name and address of each of its members and the name of the company's designated broker, and, if the applicant conducts business through a corporation, the name and address of each of its principal officers and the name of the corporation's designated broker;

(2) The place or places, including the city or village with the street and street number, if any, where the business is to be conducted; and

(3) Such other information as the commission requires.

Sec. 533. That section 81-885.12, Revised Statutes Supplement, 1992, be amended to read as follows:

81-885.12. (1) Licenses shall be granted only to persons who bear a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of broker or salesperson in such manner as to safeguard the interest of the public and only after satisfactory proof of such qualifications has been presented to the commission. No license shall be granted to an applicant who conducts business through a corporation, ~~or~~ partnership, or limited liability company unless any stockholder, ~~or~~ partner, or member having a controlling interest therein, if any, bears a good reputation for honesty, trustworthiness, and integrity.

(2) When an applicant has been convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony or a crime involving moral turpitude in any court of competent jurisdiction of this or any other state, district, or territory of the United States or of a foreign country, such untrustworthiness of the applicant and the conviction may in itself be sufficient ground for refusal of a license. The commission may in its discretion deny a license to any person who has engaged in the real estate business without a license.

(3) When an applicant has made a false statement of material fact on an application, such false statement may in itself be sufficient ground for refusal of a license.

(4) Grounds for suspension or revocation of a license, as provided for by the Nebraska Real Estate License Act, or the previous revocation of a real estate license shall also be grounds for refusal to grant a license.

Sec. 534. That section 81-885.33, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.33. It shall be unlawful for any person, partnership, limited liability company, or corporation to sell or offer for sale any real estate in a subdivision except by a broker and his or her employees duly licensed and residing in this state.

Sec. 535. That section 81-885.34, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.34. Prior to the time when such subdivision real estate is offered for sale, such person, partnership, limited liability company, or corporation shall make application for a subdivision certificate to the commission in writing on a form to be prescribed by the commission and approved by the Attorney General. Such application shall be accompanied by a filing fee of one hundred dollars plus twenty-five dollars for each one hundred lots or fraction thereof to be offered for sale. Such application shall contain the following information and supporting documents:

(1) The name and address of the applicant and whether the applicant is a person, partnership, limited liability company, or corporation;

(2) If the applicant is a partnership, the names and addresses of the individual members thereof;

(3) If the applicant is a limited liability company, the names and addresses of the individual members thereof;

(4) If the applicant is a corporation, the place of incorporation and the names and addresses of its officers and members of its board of directors;

~~(4)~~ (5) The legal description and area of the real estate to be offered for sale, including maps and recorded plats thereof showing the area involved;

~~(5)~~ (6) The name and address of the legal owner of the real estate to be offered for sale;

~~(6)~~ (7) A certified, audited financial statement fully and fairly disclosing the current financial condition of the developer;

~~(7)~~ (8) A statement of the condition of the title of the subdivided lands including encumbrances as of a specified date within thirty days of the application;

~~(8)~~ (9) Copies of the instruments by which the interest in the subdivided lands was acquired and a statement of any lien or encumbrances upon the title and copies of the instruments creating the lien or encumbrances, if any, with dates as to recording, along with the documentary evidence that any mortgagee or trustee of a deed of trust has subordinated his or her interest in the real estate to the interest of a purchaser of the real estate;

~~(9)~~ (10) A true statement of the terms and conditions on which it is intended to dispose of the real estate, together with copies of any contracts intended to be used, which contracts shall contain the following provisions: (a) A provision entitling the purchaser, if he or she has not seen the land, to an unconditional right of refund of all payments made under the contract after inspecting the land if inspection is made within a time provided in the contract which shall not be less than four months from the date of the contract and a provision granting to the purchaser an unconditional right to rescind the contract for a period of fourteen days if he or she has not inspected the land; and (b) if the land is located outside of this state, a provision to limit the right of recovery by the subdivider or his or her assignee to the remedy of foreclosure without a deficiency judgment against the purchaser;

~~(10)~~ (11) A statement of the zoning and other governmental regulations affecting the use of the land to be sold or offered for sale disclosing whether or not such regulations have been satisfied; and

~~(11)~~ (12) A copy of an offering statement which sets forth the material facts with respect to the land to be offered or sold.

After receiving the application, the commission may require such additional information concerning the real estate as it deems necessary.

Sec. 536. That section 81-885.40, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-885.40. Failure on the part of any person, partnership,

limited liability company, or corporation to comply with ~~the provisions~~ of sections 81-885.33 to 81-885.39 shall render any contract entered into in this state void and unenforceable and any money paid under such contract to the certificate holder, together with interest at the rate of six percent per annum from date of such payment, may be recovered in an action at law brought in the county where the cause of action or some part thereof arose.

Sec. 537. That section 81-1108.56, Revised Statutes Supplement, 1992, be amended to read as follows:

81-1108.56. Neither the state building division nor any employee under its direction shall be financially interested, or have any beneficial personal interest, directly or indirectly, in the purchase or leasing of any real property nor in any firm, partnership, limited liability company, corporation, or association furnishing real property. No such person shall receive or accept directly or indirectly from any person, firm, limited liability company, or corporation submitting any bid or to whom a contract may be awarded, by rebate, gift, or otherwise, any money or other thing of value whatsoever, or any promise, obligation, or contract for future reward, or compensation. Any person who violates the provisions of this section shall be guilty of a Class IV felony and shall be subject to forfeiture of his or her office or position.

Sec. 538. That section 81-1502, Revised Statutes Supplement, 1992, be amended to read as follows:

81-1502. For purposes of the Environmental Protection Act, unless the context otherwise requires:

(1) Air contaminant or air contamination shall mean the presence in the outdoor atmosphere of any dust, fume, mist, smoke, vapor, gas, other gaseous fluid, or particulate substance differing in composition from or exceeding in concentration the natural components of the atmosphere;

(2) Air pollution shall mean the presence in the outdoor atmosphere of one or more air contaminants or combinations thereof in such quantities and of such duration as are or may tend to be injurious to human, plant, or animal life, property, or the conduct of business;

(3) Chairperson shall mean the chairperson of the Environmental Quality Council and council shall mean the Environmental Quality Council;

(4) Complaint shall mean any charge, however informal, to or by the council, that any person or agency, private or public, is polluting the air, land, or water or is violating the Environmental Protection Act or any rule or regulation of the department in respect thereof;

(5) Control and controlling shall include prohibition and prohibiting as related to air, land, or water pollution;

(6) Department shall mean the Department of Environmental Quality, which department is hereby created;

(7) Director shall mean the Director of Environmental Quality, which position is hereby established;

(8) Disposal system shall mean a system for disposing of

wastes, including hazardous wastes, either by surface or underground methods, and includes sewerage systems and treatment works, disposal wells and fields, and other systems;

(9) Emissions shall mean releases or discharges into the outdoor atmosphere of any air contaminant or combination thereof;

(10) Person shall mean any individual, partnership, limited liability company, association, public or private corporation, trustee, receiver, assignee, agent, municipality or other governmental subdivision, public agency, officer or governing or managing body of any municipality, governmental subdivision, or public agency, or any other legal entity;

(11) Rule or regulation shall mean any rule or regulation of the department;

(12) Sewerage system shall mean pipelines, conduits, pumping stations, force mains, and all other constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

(13) Treatment works shall mean any plant or other works used for the purpose of treating, stabilizing, or holding wastes;

(14) Wastes shall mean sewage, industrial waste, and all other liquid, gaseous, solid, radioactive, or other substances which may pollute or tend to pollute any air, land, or waters of the state;

(15) Refuse shall mean putrescible and nonputrescible solid wastes, except body wastes, and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and solid market and industrial wastes;

(16) Garbage shall mean rejected food wastes, including waste accumulation of animal, fruit, or vegetable matter used or intended for food or that attend the preparation, use, cooking, dealing in, or storing of meat, fish, fowl, fruit, or vegetables, and dead animals rejected by rendering plants;

(17) Rubbish shall mean nonputrescible solid wastes, excluding ashes, consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind that will be a detriment to the public health and safety;

(18) Junk shall mean old scrap, copper, brass, iron, steel, rope, rags, batteries, paper, trash, rubber debris, waste, dismantled or wrecked automobiles, or parts thereof, and other old or scrap ferrous or nonferrous material;

(19) Land pollution shall mean the presence upon or within the land resources of the state of one or more contaminants or combinations of contaminants, including, but not limited to, refuse, garbage, rubbish, or junk, in such quantities and of such quality as will or are likely to (a) create a nuisance, (b) be harmful, detrimental, or injurious to public health, safety, or welfare, (c) be injurious to plant and animal life and property, or (d) be detrimental to the economic and social development, the scenic beauty, or the enjoyment of the natural attractions of the state;

(20) Water pollution shall mean the manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of water;

(21) Waters of the state shall mean all waters within the jurisdiction of this state, including all streams, lakes, ponds, impounding reservoirs, marshes, wetlands, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, situated wholly or partly within or bordering upon the state;

(22) Point source shall mean any discernible confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, or vessel or other floating craft from which pollutants are or may be discharged;

(23) Effluent limitation shall mean any restriction, including a schedule of compliance, established by the council on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into waters of the state;

(24) Schedule of compliance shall mean a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard;

(25) Hazardous waste shall mean a solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or (b) pose a substantial present or potential hazard to human or animal health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed;

(26) Solid waste shall mean any garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, and mining operations and from community activities, but solid waste shall not include solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq., or source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954, as amended, 68 Stat. 923;

(27) Storage, when used in connection with hazardous waste, shall mean the containment of hazardous waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous waste;

(28) Manifest shall mean the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(29) Processing shall mean to treat, detoxify, neutralize,

incinerate, biodegrade, or otherwise process a hazardous waste to remove such waste's harmful properties or characteristics for disposal in accordance with regulations established by the council;

(30) Well shall mean a bored, drilled, or driven shaft or a dug hole, the depth of which is greater than the largest surface dimension of such shaft or hole;

(31) Injection well shall mean a well into which fluids are injected;

(32) Fluid shall mean a material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or other form or state;

(33) Mineral production well shall mean a well drilled to promote extraction of mineral resources or energy, including, but not limited to, a well designed for (a) mining of sulfur by the Frasch process, (b) solution mining of sodium chloride, potash, phosphate, copper, uranium, or any other mineral which can be mined by this process, (c) in situ combustion of coal, tar sands, oil shale, or any other fossil fuel, or (d) recovery of geothermal energy for the production of electric power. Mineral production well shall not include any well designed for conventional oil or gas production, for use of fluids to promote enhanced recovery of oil or natural gas, or for injection of hydrocarbons for storage purposes;

(34) Mineral exploration hole shall mean a hole bored, drilled, driven, or dug in the act of exploring for a mineral other than oil and gas;

(35) Solution mining shall mean the use of an injection well and fluids to promote the extraction of mineral resources;

(36) Uranium shall mean tri-uranium octoxide; and

(37) Solid waste management facility shall mean a facility as defined in section 13-2010.

Sec. 539. That section 81-1543, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1543. Person shall mean any natural person, political subdivision, government agency, public or private corporation, partnership, limited liability company, joint venture, association, firm, or individual proprietorship.

Sec. 540. That section 81-1567, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1567. As used in sections 81-1567 to 81-1570, unless the context otherwise requires:

(1) Discharge shall mean any leakage, seepage, or other release;

(2) Hazardous materials shall mean all materials and substances which are defined as hazardous by Nebraska or federal law or by the regulations of any Nebraska or federal government agency as of July 10, 1984; and

(3) Person shall mean any individual, partnership, limited liability company, corporation, association, or other entity.

Sec. 541. That section 81-1592, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1592. Person shall mean any individual, corporation, partnership, limited liability company, firm, association, joint venture, trust, estate, public or private institution, group, public 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, but shall not include federal governmental agencies.

Sec. 542. That section 81-15,119, Revised Statutes Supplement, 1992, be amended to read as follows:

81-15,119. For purposes of the Petroleum Products and Hazardous Substances Storage and Handling Act, unless the context otherwise requires:

(1) Operator shall mean any person in control of, or having responsibility for, the daily operation of a tank but shall not include a person described in subdivision (2)(b) of this section;

(2)(a) Owner shall mean:

(i) In the case of a tank in use on July 17, 1986, or brought into use after such date, any person who owns a tank used for the storage or dispensing of regulated substances; and

(ii) In the case of any tank in use before July 17, 1986, but no longer in use on such date, any person who owned such tank immediately before the discontinuation of its use.

(b) Owner shall not include a person who, without participating in the management of a tank and otherwise not engaged in petroleum production, refining, and marketing:

(i) Holds indicia of ownership primarily to protect his or her security interest in a tank or a lienhold interest in the property on or within which a tank is located; or

(ii) Acquires ownership of a tank or the property on or within which a tank is located:

(A) Pursuant to a foreclosure of a security interest in the tank or of a lienhold interest in the property; or

(B) If the tank or the property was security for an extension of credit previously contracted, pursuant to a sale under judgment or decree, pursuant to a conveyance under a power of sale contained within a trust deed or from a trustee, or pursuant to an assignment or deed in lieu of foreclosure;

(3) Permanent abandonment shall mean that a tank has been taken permanently out of service as a storage vessel for any reason or has not been used for active storage for more than one year;

(4) Person shall mean any individual, firm, joint venture, partnership, limited liability company, corporation, association, political subdivision, cooperative association, or joint-stock association and includes any trustee, receiver, assignee, or personal representative thereof owning or operating a tank;

(5) Regulated substance shall mean:

(a) Any substance defined in section 101(14) of the

Comprehensive Environmental Response, Compensation and Liability Act of 1980, but not including any substance regulated as a hazardous waste under subtitle C of such act; and

(b) Any petroleum product, including, but not limited to, petroleum-based motor or vehicle fuels, gasoline, kerosene, and other products used for the purposes of generating power, lubrication, illumination, heating, or cleaning, but shall not include propane or liquefied natural gas;

(6) Release shall mean any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a tank or any overfilling of a tank into ground water, surface water, or subsurface soils;

(7) Tank shall mean any tank or combination of tanks, including underground pipes connected to such tank or tanks, which is used to contain an accumulation of regulated substances and the volume of which is ten percent or more beneath the surface of the ground. Tank shall not include any:

(a) Farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for consumptive use on the premises where stored, subject to a one-time fee;

(b) Tank with a storage capacity of one thousand one hundred gallons or less used for storing heating oil for consumptive use on the premises where stored, subject to a one-time fee;

(c) Septic tank;

(d) Tank situated in an underground area such as a basement, cellar, mineworking, drift, shaft, or tunnel if the tank is situated on or above the surface of the floor;

(e) Pipeline facility, including gathering lines:

(i) Regulated under the Natural Gas Pipeline Safety Act of 1979, 49 U.S.C. app. 1671;

(ii) Regulated under the Hazardous Liquid Pipeline Safety Act of 1979, 49 U.S.C. app. 2001; or

(iii) Which is an intrastate pipeline regulated under state law comparable to the laws prescribed in subdivisions (e)(i) and (e)(ii) of this subdivision;

(f) Surface impoundment, pit, pond, or lagoon;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

(i) Storm water or wastewater collection system; and

(8) Temporary abandonment shall mean that a tank will be or has been out of service for at least one hundred eighty days but not more than one year.

Sec. 543. That section 81-1706, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1706. Firm shall mean any individual, partnership, limited liability company, corporation, association, or other legal entity permitted by law to practice architecture, engineering, landscape architecture, or land surveying in the state.

Sec. 544. That section 81-1836, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1836. Every person, firm, corporation, partnership, limited liability company, association, or other legal entity contracting with any person or the representative or assignee of any person accused of a crime in this state with respect to the reenactment of such crime, by way of a movie, book, magazine article, radio, or television presentation, live entertainment of any kind, or from the expression of such person's thoughts, feelings, opinions, or emotions regarding such crime, shall pay over to the committee any money which would otherwise, by terms of such contract, be owing to the person so convicted or his or her representatives. The committee shall deposit such money in the Victim's Compensation Fund.

Sec. 545. That section 81-1906, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-1906. Person shall mean any individual, firm, ~~partnership~~ partnership, limited liability company, association, or corporation.

Sec. 546. That section 81-2130, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

81-2130. Any political subdivision may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the board copies of its current inspection ordinances or resolutions and codes. No political subdivision shall require any individual, partnership, limited liability company, corporation, or other business association holding a license from the board to (1) pay any license fee or (2) take any examination if the person holds a current license issued by the board which is of a classification equal to or greater than the classification needed to do the work proposed. Any such political subdivision may provide a requirement that each individual, partnership, limited liability company, corporation, railroad, or other business association doing electrical work within the jurisdiction of such political subdivision have on file with the political subdivision a copy of the current license issued by the board or such other evidence of such license as may be provided by the board.

Sec. 547. That section 83-145.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

83-145.01. Any department, institution, or agency of this state and any private individual, firm, partnership, limited liability company, or corporation may purchase from the Department of Correctional Services braille books and materials produced and printed by offenders or misdemeanants confined in facilities of the Department of Correctional Services. The Department of Correctional Services shall also be allowed to service any braille machinery needed to print braille products.

Sec. 548. That section 84-167, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

84-167. Any person, association, partnership, limited

liability company, or corporation may appeal to the Governor requesting a partial or complete exemption from the emergency measures ordered pursuant to sections 84-162 to 84-167. Any such exemption issued by the Governor shall be in writing and shall clearly identify those persons exempted, the scope of such exemption, and the reasons for granting such exemptions.

Sec. 549. That section 86-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

86-102. Every telegraph company and every press association or corporation engaged in the transmission, collection, distribution, or delivery of telegraphic dispatches, either for private use or for publication in newspapers, shall file in the office of the Secretary of State a statement, certified to under oath by its president and secretary or by two of its officers, embodying the following information: (1) The name of the association; (2) the amount of capital invested; and (3) the character of its business, together with a true copy of its articles of incorporation or other articles of partnership organization, with its regulations and bylaws then in force.

Sec. 550. That section 86-330, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

86-330. Any person who willfully injures, alters, or by any instrument, device, or contrivance in any manner interferes with; or obstructs the action or operation of any meter made or provided for measuring or registering the amount or quantity of electricity, gas, or water passing through it, without the knowledge and consent of the person, partnership, limited liability company, corporation, or company furnishing or supplying the electricity, electric current, gas, or water passing or intended to pass through such meter, shall be deemed guilty of a misdemeanor; and upon conviction shall be punished as provided in section 86-329.

Sec. 551. That section 86-331.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

86-331.01. As used in sections 86-331.01 to 86-331.04, unless the context otherwise requires:

(1) Bypassing shall mean the act of attaching, connecting, or in any manner affixing any wire, cord, socket, motor, pipe, or other instrument, device, or contrivance to the utility supply system or any part of the system in such a manner as to transmit, supply, or use any utility service without passing through an authorized meter or other device provided for measuring, registering, determining, or limiting the amount of electricity, gas, or water consumed. Bypassing shall also mean the act of employing any means to obtain the use or benefit of electricity, gas, or water without paying for the use at the rate established by the supplier of such utilities;

(2) Customer shall mean the person responsible for payment for utility services for the premises; and shall include employees and agents of the customer;

(3) Person shall mean any individual, firm, partnership,

limited liability company, corporation, company, association, joint-stock association, and other legal entity;

(4) Tampering shall mean the act of damaging, altering, adjusting, or in any manner interfering with or obstructing the action or operation of any meter or other device provided for measuring, registering, determining, or limiting the amount of electricity, gas, or water consumed;

(5) Unauthorized metering shall mean the act of removing, moving, installing, connecting, reconnecting, or disconnecting any meter or metering device for utility service by a person other than an authorized employee or agent of such utility;

(6) Utility shall mean any person or entity lawfully operating in whole or in part for the purpose of supplying electricity, gas, water, including steam, or any combination thereof, to the public or to any person;

(7) Utility service shall mean the provision of electricity, gas, steam, water, or any other service or commodity furnished by the utility for compensation; and

(8) Utility supply system shall mean and include all wires, conduits, pipes, cords, sockets, motors, meters, instruments, load control equipment, and ~~all~~ other devices used by the utility for the purpose of providing utility services.

Sec. 552. That section 86-337, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

86-337. Administrators and executors of the estates of deceased persons, trustees of trust estates, the guardians of estates of minors and incompetent persons, and conservators are hereby authorized to execute easements, licenses, and other contracts with public power districts, electric membership associations, cooperative corporations, individuals, partnerships, limited liability companies, or corporations for the construction, operation, and maintenance of electric generation, transmission, or distribution facilities or facilities for the transmission or distribution of communications; upon such terms and conditions as the administrators, executors, trustees, guardians, or conservators of such persons may deem reasonable and equitable, and for the best interests of the estates of deceased persons, minors, incompetents, and the beneficiaries of a trust.

Sec. 553. That section 86-710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

86-710. A subpoena of the Attorney General or a county attorney may be served by any person designated in the subpoena to serve it. Service upon a natural person may be made by personal delivery of the subpoena to him or her. Service may be made upon a domestic or foreign corporation, ~~or~~ upon a partnership, upon a domestic or foreign limited liability company, or upon any other unincorporated association which is subject to suit under a common name, by delivering the subpoena to an officer, a managing or general agent, a member, or ~~to~~ any other agent authorized by appointment or by law to receive service of process. The affidavit of the person serving the subpoena entered on a true copy

thereof by the person serving it shall be proof of service.

Sec. 554. That section 86-802, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

86-802. For purposes of sections 75-109, 75-604, 75-609, and 86-801 to 86-811, unless the context otherwise requires:

(1) Basic local exchange rate shall mean the flat monthly charge for an access line, whether the service is provided on a flat or measured basis, imposed by a telecommunications company for basic local exchange service, but shall not include any charges resulting from action by a federal agency or taxes imposed by a governmental body which are billed by a telecommunications company to its customers;

(2) Basic local exchange service shall mean the access and transmission of two-way switched voice communications within a local exchange area;

(3) Business service shall mean telecommunications service which is used for occupational, professional, or institutional purposes;

(4) Commission shall mean the Public Service Commission;

(5) Extended service area shall mean a grouping of two or more exchanges which allows subscribers of one exchange in the group to place and receive two-way switched communications to and from subscribers in one or more other exchanges in the group without an interexchange toll charge;

(6) Interexchange service shall mean the access and transmission of communications between two or more local exchange areas, except for two-way switched communications between local exchanges that are included in the same extended service area;

(7) Inter-LATA interexchange services shall mean interexchange telecommunications services originating and terminating in different LATAs;

(8) Intra-LATA interexchange services shall mean interexchange telecommunications services that originate and terminate within the same LATA;

(9) LATA shall mean local access transport area as defined by applicable federal law, rules, or regulations;

(10) Local exchange area shall mean a territorial unit established by a telecommunications company for the administration of communications services within a specific area generally encompassing a city, town, or village and its environs as described in maps filed with and approved by the Public Service Commission;

(11) Residence service shall mean telecommunications service which is furnished to a dwelling and which is used for personal or domestic purposes and not for business, professional, or institutional purposes; and

(12) Telecommunications company shall mean any person, firm, partnership, limited liability company, corporation, association, or governmental entity offering communications services to the public for hire in Nebraska intrastate commerce.

Sec. 555. That section 87-111, Reissue Revised Statutes of

Nebraska, 1943, be amended to read as follows:

87-111. As used in sections 87-111 to 87-125, unless the context otherwise requires:

(1) Trademark shall mean any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by him or her and to distinguish them from goods made or sold by others;

(2) Person shall mean any individual, firm, partnership, limited liability company, corporation, association, union, or other organization;

(3) Applicant shall mean the person filing an application for registration of a trademark under such sections 87-111 to 87-125, or his or her legal representatives, successors, or assigns;

(4) Registrant shall mean the person to whom the registration of a trademark under such sections 87-111 to 87-125 is issued; or his or her legal representatives, successors, or assigns;

(5) A trademark shall be deemed to be used in this state on goods when it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto and such goods are sold or otherwise distributed in the state;

(6) Service mark shall mean a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others; and

(7) Mark shall include any trademark or service mark entitled to registration under such sections 87-111 to 87-125 whether registered or not.

Sec. 556. That section 87-208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

87-208. As used in sections 87-208 to 87-219, unless the context otherwise requires:

(1) Applicant shall mean a person filing an application for registration of a trade name under such sections 87-208 to 87-219, or his or her legal representatives, successors, or assigns;

(2) Person shall mean an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, unincorporated association, or two or more of the foregoing having a joint or common interest; or any other legal or commercial entity;

(3) Registrant shall mean a person to whom registration of a trade name under such sections 87-208 to 87-219 is issued; or his or her legal representatives, successors, or assigns; and

(4) Trade name shall mean every name under which any person does or transacts any business in this state; other than the true name of such person.

Sec. 557. That section 87-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

87-301. ~~As used in sections 87-301 to 87-306~~ For purposes of the Uniform Deceptive Trade Practices Act, unless the context

otherwise requires:

(1) Article ~~means~~ shall mean a product as distinguished from its trademark, label, or distinctive dress in packaging;

(2) Certification mark ~~means~~ shall mean a mark used in connection with the goods or services of a person other than the certifier to indicate geographic origin, material, mode of manufacture, quality, accuracy, or other characteristics of the goods or services or to indicate that the work or labor on the goods or services was performed by members of a union or other organization;

(3) Collective mark ~~means~~ shall mean a mark used by members of a cooperative, association, or other collective group or organization to identify goods or services and distinguish them from those of others, or to indicate membership in the collective group or organization;

(4) Mark ~~means~~ shall mean a word, name, symbol, device, or any combination of the foregoing in any form or arrangement;

(5) Person ~~means~~ shall mean an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, unincorporated association, two or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity;

(6) Service mark shall mean a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others;

(7) Trademark shall mean any word, name, symbol, or device or any combination thereof adopted and used by a person to identify goods made or sold by him or her and to distinguish them from goods made or sold by others;

(8) Trade name ~~means~~ shall mean a word or a name, or any combination of the foregoing in any form or arrangement used by a person to identify his or her business, vocation, or occupation and distinguish it from the business, vocation, or occupation of others;

(9) Chain distributor scheme also known as pyramid sales shall mean a sales device whereby a person, upon a condition that he or she make an investment, is granted a license or right to recruit for profit one or more additional persons who also are granted such license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted such license or right upon such condition. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for such license or right to recruit or the receipt of profits therefrom, shall not change the identity of the scheme as a chain distributor scheme;

(10) Investment shall be any acquisition, for a consideration other than personal services, of personal property, tangible or intangible, for profit or business purposes, and shall include, without limitation, franchises, business opportunities, and services. It shall not include real estate or securities registered under Chapter 8, article 11, or sales demonstration equipment and materials furnished at cost for use in

making sales and not for resale;

(11) Referral or chain referral sales or leases shall mean any sales technique, plan, arrangement, or agreement whereby the seller or lessor gives or offers to give a rebate or discount or otherwise pays or offers to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of the buyer or lessee giving to the seller or lessor the names of prospective buyers or lessees or otherwise aiding the seller or lessor in making a sale or lease to another person if the earning of the rebate, discount, or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease; and

(12) Attorney General shall mean the Attorney General of the State of Nebraska or the county attorney of any county with the consent and advice of the Attorney General.

Sec. 558. That section 87-307, Revised Statutes Supplement, 1992, be amended to read as follows:

87-307. For purposes of sections 87-302, 87-303.08, and 87-307 to 87-312, unless the context otherwise requires:

(1) Advertising purposes shall mean all representations intended or likely to induce the purchase or use of any product, concept, or service or to solicit a contribution to any group, organization, or committee;

(2) Automatic dialing-announcing device shall mean a device which selects and dials telephone numbers and automatically plays a recorded message for advertising purposes;

(3) Facsimile device shall mean any machine that receives and copies reproductions or facsimiles of documents or photographs that have been transmitted electronically or telephonically over telecommunications lines; and

(4) Person shall mean any individual, corporation, governmental agency or subdivision, partnership, limited liability company, company, association, or any other legal or commercial entity.

Sec. 559. That section 87-402, Revised Statutes Supplement, 1992, be amended to read as follows:

87-402. For purposes of the Franchise Practices Act, unless the context otherwise requires:

(1) Franchise shall mean (a) a written arrangement for a definite or indefinite period, in which a person grants to another person for a franchise fee a license to use a trade name, trademark, service mark, or related characteristics and in which there is a community of interest in the marketing of goods or services at wholesale or retail or by lease, agreement, or otherwise and (b) any arrangement, agreement, or contract, either expressed or implied, for the sale, distribution, or marketing of nonalcoholic beverages at wholesale, retail, or otherwise. Franchise shall not include any arrangement, agreement, or contract, either expressed or implied, for the sale, distribution, or marketing of petroleum products at wholesale, retail, or otherwise;

(2) Person shall mean every natural person, firm,

copartnership partnership, limited liability company, association, or corporation;

(3) Franchisor shall mean a person who grants a franchise to another person;

(4) Franchisee shall mean a person to whom a franchise is offered or granted;

(5) Franchise fee shall include any payment made by the franchisee to the franchisor other than a payment for the purchase of goods or services, for a surety bond, for a surety deposit, or for security for payment of debts due;

(6) Sale, transfer, or assignment shall mean any disposition of a franchise or any interest therein, with or without consideration, which shall include, but not be limited to, bequest, inheritance, gift, exchange, lease, or license;

(7) Place of business shall mean a fixed geographical location at which the franchisee displays for sale and sells the franchisor's goods or offers for sale and sells the franchisor's services. Place of business shall not mean an office, a warehouse, a place of storage, a residence, or a vehicle; and

(8) Good cause for terminating, canceling, or failure to renew a franchise shall be limited to failure by the franchisee to substantially comply with the requirements imposed upon him or her by the franchise.

Sec. 560. That section 87-502, Revised Statutes Supplement, 1992, be amended to read as follows:

87-502. As used in the Trade Secrets Act, unless the context otherwise requires:

(1) Improper means shall mean theft, bribery, misrepresentation, breach or inducement of a breach of a duty to maintain secrecy, or espionage through electronic or other means;

(2) Misappropriation shall mean:

(a) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or

(b) Disclosure or use of a trade secret of another without express or implied consent by a person who:

(i) Used improper means to acquire knowledge of the trade secret;

(ii) At the time of the disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:

(A) Derived from or through a person who had utilized improper means to acquire it;

(B) Acquired under circumstances giving rise to a duty to maintain its secrecy or limit its use; or

(C) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or

(iii) Before a material change of his or her position, knew or had reason to know that the information was a trade secret and that

knowledge of it had been acquired by accident or mistake;

(3) Person shall mean a natural person, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity; and

(4) Trade secret shall mean information, including, but not limited to, a drawing, formula, pattern, compilation, program, device, method, technique, code, or process that:

(a) Derives independent economic value, actual or potential, from not being known to, and not being ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and

(b) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Sec. 561. That section 87-602, Revised Statutes Supplement, 1992, be amended to read as follows:

87-602. For purposes of the Invention Development Services Disclosure Act:

(1) Contract for invention development services shall mean a contract by which an invention developer undertakes invention development services for a customer;

(2) Customer shall mean any person, firm, partnership, limited liability company, corporation, or other entity that enters into a contract for invention development services, except any firm, limited liability company, corporation, or other entity, other than a natural person, purchasing invention development services as an adjunct to the traditional commercial enterprises in which it engages as a livelihood;

(3) Invention shall mean a discovery, process, machine, design, formulation, product, concept, or idea, or any combination thereof, whether patentable or not;

(4) Invention developer shall mean any person, firm, partnership, limited liability company, or corporation and any agent, employee, officer, partner, member, or independent contractor thereof who offers to perform or performs for a customer any invention development services. Invention developer shall not include:

(a) Any department or agency of the federal, state, or local government;

(b) Any nonprofit, charitable, scientific, or educational organization described in section 170(b)(1)(A) of the Internal Revenue Code of 1986, as amended;

(c) Any attorney acting within the scope of the attorney's professional license;

(d) Any person duly registered before the United States Patent and Trademark Office acting within the scope of that person's professional license; or

(e) Any person, firm, limited liability company, corporation, association, or other entity that does not charge a fee for invention development services other than any payment made from a

portion of the income received by a customer by virtue of such acts performed by such entity. For purposes of this subdivision, fee shall include any payment made by the customer to such entity including reimbursement for expenditures made or costs incurred by such entity; and

(5) Invention development services shall mean any act involved in the evaluation of an invention for commercial potential and the marketing, brokering, or promoting of such an invention done by or for an invention developer for the purpose of procuring a licensee or buyer for an intellectual property right in the invention.

Sec. 562. That section 87-703, Revised Statutes Supplement, 1992, be amended to read as follows:

87-703. For purposes of the Equipment Business Regulation Act:

(1) Continuing commercial relationship shall mean a relationship in which a dealer has been granted the right to sell and service equipment manufactured by a supplier;

(2) Controlling interest shall mean a combination of ownership or management interests which legally or in practical effect has the power to determine the policies under which a dealership is operated;

(3) Dealer or dealership shall mean an individual, partnership, limited liability company, corporation, association, or other form of business enterprise primarily engaged in the retail sale and service of equipment in this state pursuant to any oral or written agreement for a definite or indefinite period of time in which there is a continuing commercial relationship in the marketing of equipment and related services;

(4) Dealer agreement shall mean a contract or agreement, whether oral or written, between a supplier and dealer by which the dealer is granted the right to sell, distribute, and service the supplier's equipment and by which there is a continuing commercial relationship between the supplier and the dealer;

(5) Equipment shall mean any machine designed for or adapted and used for agricultural, horticultural, livestock, grazing, forestry, or industrial purposes; and

(6) Supplier shall mean the manufacturer, wholesaler, or distributor of the equipment to be sold by a dealer.

Sec. 563. That section 88-526, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

88-526. As used in the Grain Warehouse Act, unless the context otherwise requires:

(1) Commission shall mean the Public Service Commission;

(2) Grain shall mean wheat, corn, oats, soybeans, barley, rye, flax, or sorghum which has not been processed or packaged for the purpose of distribution as seed, including, but not limited to, edible beans, whole corn plant pellets, alfalfa pellets, millet, sunflower seed, safflower seed, and any other bulk pelleted agricultural storable commodity;

(3) Grain in storage shall mean any grain which has been

received at any warehouse for which the actual sale price is not fixed and payment is not made within thirty days after the receipt of the grain;

(4) Warehouse shall mean any grain elevator, mill, grist mill, building, or receptacle in which grain is held in storage for more than ten consecutive days;

(5) Warehouse licensee shall mean any warehouseman who is licensed pursuant to the Grain Warehouse Act; and

(6) Warehouseman shall mean any person, partnership, limited liability company, corporation, or association who (a) receives grain for storage or stores or offers to store grain for legal consideration for another person, partnership, limited liability company, corporation, or association in a warehouse where delivered or (b) receives grain for shipment to other points for storage, consignment, or resale either in or out of this state.

Sec. 564. That section 88-543, Revised Statutes Supplement, 1992, be amended to read as follows:

88-543. No warehouse licensee or partner, member, officer, or agent thereof shall issue a receipt for grain not actually received. If at any time there is less grain in a warehouse than outstanding receipts issued for grain, there shall be a presumption that the warehouse licensee or partner, member, officer, or agent thereof has wrongfully removed grain, has wrongfully caused grain to be removed, or has issued receipts for grain not actually received, and has violated this section. Any warehouse licensee or partner, member, officer, or agent thereof who knowingly and willingly violates this section shall be guilty of Class IV felony.

Sec. 565. That section 88-545, Revised Statutes Supplement, 1992, be amended to read as follows:

88-545. The commission shall enforce the Grain Warehouse Act and shall adopt and promulgate rules and regulations to aid in the administration of the act. Any person or partner, member, officer, or agent of any person who violates the Grain Warehouse Act shall be guilty of a Class IV felony, unless otherwise specifically provided, and shall be liable for any damages suffered by any person from such violation. Upon request of the commission, the Attorney General or any county attorney shall assist in the prosecution of any violations of the act.

Sec. 566. That section 89-187.02, Revised Statutes Supplement, 1992, be amended to read as follows:

89-187.02. Application for a permit to operate a weighing and measuring establishment shall be made to the director on forms prescribed and furnished by the department. Such application shall include the full name and mailing address of the applicant; the names and addresses of any partners, members, or corporate officers; the name and address of the person authorized by the applicant to receive notices and orders of the department as provided in the Weights and Measures Act; whether the applicant is an individual, partnership, limited liability company, corporation, or other legal entity; the location and type of all commercial weighing and measuring devices; and the signature of the

applicant. On and after August 1, 1992, an application for a permit shall be made prior to the operation of a weighing and measuring establishment. The application shall be accompanied by a one-time permit fee of five dollars. Payment of the permit fee shall not preclude payment of the annual device registration and inspection fees required in section 89-187.

Sec. 567. That section 1-201, Uniform Commercial Code, be amended to read as follows:

1-201. General definitions.

Subject to additional definitions contained in the subsequent articles of the Uniform Commercial Code which are applicable to specific articles or parts thereof, and unless the context otherwise requires, in the code:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity, and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in the code (sections 1-205 and 2-208). Whether an agreement has legal consequences is determined by the provisions of the code, if applicable; otherwise by the law of contracts (section 1-103). (Compare "Contract".)

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or indorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or airway bill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him or her is in violation of the ownership rights or security interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons in the business of selling goods of that kind.

"Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printed heading in capitals (as, NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by the code and any other applicable rules of law. (Compare "Agreement".)

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor, and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity, and a personal representative or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt, or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold, and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission, or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of the code to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder", with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder" with respect to a document of title means the person in possession if the goods are deliverable to bearer

or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay his or her debts in the ordinary course of business or cannot pay his or her debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

(25) A person has "notice" of a fact when:

(a) he or she has actual knowledge of it;

(b) he or she has received a notice or notification of it; or

(c) from all the facts and circumstances known to him or her at the time in question he or she has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when he or she has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by the code.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when:

(a) it is duly delivered at the place of business through which the contract was made or at any other place held out by him or her as the place for receipt of such communications;

(b) in the event notice or notification cannot be had pursuant to paragraph (a), it is published at least once in a legal newspaper published in or of general circulation in the county where the transaction has its situs; or

(c) it comes to his or her attention.

(27) Notice, knowledge, or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to his or her attention if the organization had exercised due diligence.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, limited liability company, or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party", as distinct from "third party", means a person who has engaged in a transaction or made an agreement within the code.

(30) "Person" includes an individual or an organization (See section 1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, issue or reissue, gift, or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, a member of a limited liability company, and a trustee, personal representative, or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 2-401) is limited in effect to a reservation of a "security interest". The term also includes any interest of a buyer of accounts or chattel paper which is subject to article 9. The special property interest of a buyer of goods on identification of those goods to a contract for sale under section 2-401 is not a "security interest", but a buyer may also acquire a "security interest" by complying with article 9. Unless a consignment is intended as security, reservation of title thereunder is not a "security interest", but a consignment in any event is subject to the provisions on consignment sales (section 2-326).

Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and

(a) the original term of the lease is equal to or greater than the remaining economic life of the goods,

(b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,

(c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or

(d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely

because it provides that

(a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,

(b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,

(c) the lessee has an option to renew the lease or to become the owner of the goods,

(d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or

(e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection (37):

(x) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(z) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

"Security interest" does not include a consumer rental purchase agreement as defined in the Consumer Rental Purchase Agreement Act.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the

effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

(44) "Value". Except as otherwise provided with respect to negotiable instruments and bank collections (sections 3-303, 4-210, and 4-211) a person gives "value" for rights if he or she acquires them:

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection;

(b) as security for or in total or partial satisfaction of a preexisting claim;

(c) by accepting delivery pursuant to a preexisting contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting, or any other intentional reduction to tangible form.

Sec. 568. That section 3-307, Uniform Commercial Code, be amended to read as follows:

U3-307. Notice of breach of fiduciary duty.

(a) In this section:

(1) "Fiduciary" means an agent, trustee, partner, corporate officer or director, or other representative owing a fiduciary duty with respect to an instrument.

(2) "Represented person" means the principal, beneficiary, partnership, limited liability company, corporation, or other person to whom the duty stated in paragraph (1) is owed.

(b) If (i) an instrument is taken from a fiduciary for payment or collection or for value, (ii) the taker has knowledge of the fiduciary status of the fiduciary, and (iii) the represented person makes a claim to the instrument or its proceeds on the basis that the transaction of the fiduciary is a breach of fiduciary duty, the following rules apply:

(1) Notice of breach of fiduciary duty by the fiduciary is notice of the claim of the represented person.

(2) In the case of an instrument payable to the represented person or the fiduciary as such, the taker has notice of the breach of fiduciary duty if the instrument is (i) taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, (ii)

taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or (iii) deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

(3) If an instrument is issued by the represented person or the fiduciary as such, and made payable to the fiduciary personally, the taker does not have notice of the breach of fiduciary duty unless the taker knows of the breach of fiduciary duty.

(4) If an instrument is issued by the represented person or the fiduciary as such, to the taker as payee, the taker has notice of the breach of fiduciary duty if the instrument is (i) taken in payment of or as security for a debt known by the taker to be the personal debt of the fiduciary, (ii) taken in a transaction known by the taker to be for the personal benefit of the fiduciary, or (iii) deposited to an account other than an account of the fiduciary, as such, or an account of the represented person.

Sec. 569. That section 9-402, Uniform Commercial Code, be amended to read as follows:

U9-402. Formal requisites of financing statement; amendments; fees; mortgage as financing statement; substantial compliance; effect.

(1) A financing statement may be in a form prescribed by the Secretary of State and is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. The Secretary of State shall require that the social security number or the federal tax identification number of both the secured party and the debtor be provided on the financing statement and other related filings. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, or when the financing statement is filed as a fixture filing (section 9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state.

(2) A financing statement which otherwise complies with subsection (1) is sufficient when it is signed by the secured party instead of the debtor when it is filed to perfect a security interest in

(a) collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state

that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) proceeds under section 9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) collateral as to which the filing has lapsed; or

(d) collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7)).

(3) The Secretary of State shall prescribe a form substantially as follows to comply with subsection (1):

Name of debtor (or assignor)

Address

Name of secured party (or assignee)

Address

1. This financing statement covers the following types (or items) of property:

(Describe)

2. (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe real estate)

3. (If applicable) The above goods are to become fixtures on (Describe real estate) and this financing statement is to be filed for record in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is

4. (If products of collateral are claimed) Products of the collateral are also covered.

Signature of debtor (or assignor)

Signature of secured party (or assignee)

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. The fee for such filings shall be as provided in subsection (5) of section 9-403. In this article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subsection (5) of section 9-103, or a financing statement filed as a fixture filing (section 9-313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be filed for record in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record

owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if (a) the goods are described in the mortgage by item or type, (b) the goods are or are to become fixtures related to the real estate described in the mortgage, (c) the mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records, and (d) the mortgage is duly recorded. No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership, limited liability company, or corporate name of the debtor, whether or not it adds other trade names or the names of the partners or members. Where the debtor so changes his or her name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. The failure to include the social security number or the federal tax identification number shall not render any filing unperfected.

Sec. 570. That original sections 1-126, 1-133, 1-135, 1-136, 1-138, 1-152, 1-154, 1-155, 1-157, 1-158, 1-160, 1-161, 1-162, 1-164.02, 1-168, 2-953, 2-1084, 2-1810, 2-2303, 2-2446, 2-2601, 2-2701.01, 2-3002, 2-3102, 2-3302, 2-3403, 2-3605, 2-3606, 2-3741, 2-3742, 2-3817, 2-3914, 2-4002, 2-4204, 2-4603, 2-4802, 3-101, 3-150, 3-301, 3-402, 8-140, 8-148.02, 8-364, 8-409.01, 8-501, 8-902, 8-903, 8-1001, 8-1005, 8-1101, 8-1103, 8-1109, 8-1118, 8-1202, 8-1301, 8-1501, 8-1511, 8-1714, 8-1722, 9-207.01, 9-235.01, 9-316, 9-329.01, 9-329.02, 9-329.03, 9-329.04, 9-614, 9-616, 9-630, 9-632, 9-642, 9-642.01, 12-606, 12-607, 12-609, 12-613, 12-614, 12-1108, 13-203, 14-2004, 15-203, 15-816, 15-819, 16-205, 17-926, 18-306, 18-307, 18-308, 18-1916, 18-1917, 18-1918, 18-2103, 18-2412, 18-2709, 20-145, 20-314, 21-1311, 21-1401, 21-1771, 21-1774, 21-1782, 21-1904, 21-2004, 21-2102, 21-2108, 21-2222, 21-2434, 21-2436, 21-2444, 23-114.05, 23-2809, 23-3594, 23-3595, 25-403.02, 25-535, 25-1056, 25-1801, 25-1804, 25-21,161, 25-2803, 28-425, 28-613, 28-807, 28-1210, 28-1213, 28-1229, 28-1240, 28-1250, 28-1251, 28-1323, 28-1324, 28-1420, 28-1421, 28-1422, 28-1423, 29-1507, 29-3513, 30-2701, 31-902, 36-213, 36-213.01, 37-431, 37-719, 37-1207, 39-6,161, 39-6,188, 39-807, 39-808, 39-892, 39-1302, 39-1638, 39-1816, 39-2602, 42-364.11, 43-1503, 44-377, 44-392, 44-3,107.01, 44-404, 44-407.10, 44-759, 44-760, 44-1201, 44-1602, 44-1603, 44-1607.02, 44-2610, 44-2617, 44-2702, 44-2803, 44-2821,

44-2837, 44-2902, 45-114, 45-120, 45-128, 45-133, 45-142, 45-145, 45-153, 45-350, 45-607, 46-296, 46-505, 46-1001, 46-1015, 48-115, 48-145.01, 48-162, 48-175, 48-220, 48-402, 48-501.01, 48-603, 48-604, 48-652, 48-658, 48-801, 48-902, 48-1002, 48-1220, 48-1702, 48-1704, 49-801, 49-1407, 49-1408, 49-1438, 49-1496, 49-1546, 52-801, 52-802, 52-803, 52-804, 52-805, 52-1001, 52-1309, 52-1401, 53-149, 54-102, 54-106, 54-108, 54-115, 54-126, 54-133.01, 54-155, 54-156, 54-169, 54-201, 54-208, 54-609, 54-610, 54-1158, 54-1509, 54-1514, 54-1703, 54-2001, 57-301, 57-401, 57-601, 57-701, 57-801, 57-903, 57-1201, 59-804, 59-805, 59-806, 59-807, 59-808, 59-809, 59-810, 59-811, 59-812, 59-813, 59-814, 59-815, 59-816, 59-818, 59-819, 59-822, 59-830, 59-1401, 59-1502, 59-1601, 59-1704, 59-1735, 59-1739, 59-1742, 60-501, 60-1201, 60-1202, 60-1406, 60-1407, 60-2001, 64-205, 64-206, 67-233, 67-234, 67-236, 67-251, 67-255, 67-275, 67-281, 67-283, 67-302, 69-1005, 69-1201, 69-1204, 69-1205, 69-1215, 70-702, 70-1602, 71-1,132.35, 71-1,154, 71-201, 71-363, 71-1557, 71-1901, 71-2028, 71-2029, 71-2511, 71-3101, 71-3201, 71-3503, 71-4603, 71-4621, 71-4623, 71-4801, 71-5301, 71-5502, 71-5811, 71-5822, 71-5831, 71-5903, 71-5908, 71-5909, 71-6103, 71-6106, 71-6107, 71-6301, 72-232, 72-233, 72-902, 72-1103, 72-1702, 73-101.01, 75-201, 75-302, 75-320, 75-323, 75-325, 75-604, 75-605, 75-606, 75-612, 75-713, 75-721, 75-723, 75-909, 76-537, 76-538, 76-701, 76-802, 76-827, 76-1226, 76-1302, 76-1410, 76-1458, 76-1702, 76-2102, 76-2105, 76-2110, 77-113, 77-1244, 77-1323, 77-1324, 77-2363, 77-2601, 77-2715.07, 77-2730, 77-2733, 77-2733.01, 77-2753, 77-2761, 77-2790, 77-27,188.01, 77-27,194, 77-3001, 77-3101, 77-4009, 77-4103, 77-4108, 79-2925, 81-149, 81-150, 81-542, 81-854, 81-885.06, 81-885.33, 81-885.34, 81-885.40, 81-1543, 81-1567, 81-1592, 81-1706, 81-1836, 81-1906, 81-2130, 83-145.01, 84-167, 86-102, 86-330, 86-331.01, 86-337, 86-710, 86-802, 87-111, 87-208, 87-301, and 88-526, Reissue Revised Statutes of Nebraska, 1943, sections 12-1102, 14-2119, 15-808, 20-403, 25-1010, 25-1081, 28-401, 30-2209, 31-735, 32-1604, 36-702, 37-101, 39-602, 43-1709, 43-2702, 44-208.08, 44-217, 44-766, 44-1523, 44-1525, 44-1538, 44-1605, 44-1802, 44-1930, 44-2403, 44-2621, 44-2627, 44-2824, 44-32,117, 44-32,125, 44-4002, 44-4307, 44-4702, 44-4703, 44-4704, 44-4722, 44-4803, 44-5115, 44-5144, 44-5214, 44-5812, 45-101.04, 45-190, 45-702, 45-706, 45-802, 46-657, 48-602, 48-1102, 48-1202, 48-1229, 53-103, 53-110, 53-125, 53-168, 53-205, 53-212, 53-218, 54-104, 54-849, 54-1602, 54-1605, 54-1902, 58-239, 58-242, 58-245, 58-404, 60-476, 60-4,173, 60-1401.02, 60-1411.02, 66-482, 66-4,130, 66-602, 66-712, 66-729, 71-1,142, 71-1331, 71-2020, 71-2023, 71-2059, 71-4702, 71-5102, 71-5810, 71-5830, 71-7303, 71-7414, 76-902, 76-2227, 76-2229, 77-122, 77-1201, 77-2702.09, 77-2702.10, 77-2705, 77-2716, 77-2734.01, 79-2803, 81-161.05, 81-2,147.01, 81-2,162.02, 81-2,270, 81-885.01, 81-885.04, 81-885.11, 81-885.12, 81-1108.56, 81-1502, 81-15,119, 87-307, 87-402, 87-502, 87-602, 87-703, 88-543, 88-545, and 89-187.02, Revised Statutes Supplement, 1992, sections 69-1301 and 69-1310, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 3 and 13, respectively, Legislative Bill 26, Ninety-second Legislature, Third Special Session, 1992,

section 8-141, Reissue Revised Statutes of Nebraska, 1943, as amended by section 3, Legislative Bill 81, Ninety-third Legislature, First Session, 1993, sections 9-1,104 and 9-834, Reissue Revised Statutes of Nebraska, 1943, as amended by sections 1 and 53, respectively, Legislative Bill 138, Ninety-third Legislature, First Session, 1993, and sections 1-201, 3-307, and 9-402, Uniform Commercial Code, are repealed.