

LEGISLATIVE BILL 401

Approved by the Governor June 1, 1995

Introduced by Wesely, 26; Brown, 6

AN ACT relating to child care; to amend sections 43-2601, 43-2603 to 43-2606, 43-2608 to 43-2618, 43-2620, 43-2624, 71-1902, 71-1904, 71-1908, 71-1909, 71-1912, 71-1913.02, 71-1914, 71-1916, 71-1917, 79-3322, and 81-502, Reissue Revised Statutes of Nebraska, sections 29-2264, 43-2607, 68-1206, 71-901, 71-1901, 71-1903, 71-1907, 71-1910, 71-1911, 71-1913, 71-1913.01, 71-1913.03, and 71-1915, Revised Statutes Supplement, 1994, and section 79-444, Reissue Revised Statutes of Nebraska, as amended by section 1, Legislative Bill 214, Ninety-fourth Legislature, First Session, 1995; to change provisions relating to regulation of child and foster care; to eliminate obsolete provisions; to harmonize provisions; to repeal the original sections; and to outright repeal section 71-1918, Reissue Revised Statutes of Nebraska.

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

Section 1. Section 29-2264, Revised Statutes Supplement, 1994, is amended to read:

29-2264. (1) Whenever any person is placed on probation by a court and satisfactorily completes the conditions of his or her probation for the entire period thereof or is discharged from probation prior to the termination of the period thereof of probation, the sentencing court shall issue an order releasing the offender from probation, and such order shall in all felony cases restore the offender's civil rights.

(2) Whenever any person is convicted of a misdemeanor or felony and is placed on probation by the court or is sentenced to a fine only, he or she may, after satisfactory fulfillment of the conditions of probation for the entire period thereof or after discharge from probation prior to the termination of the period thereof of probation and after payment of any fine, petition the sentencing court to set aside the conviction.

(3) In determining whether to set aside the conviction, the court shall consider:

(a) The behavior of the offender after sentencing;

(b) The likelihood that the offender will not engage in further criminal activity; and

(c) Any other information the court considers relevant.

(4) The court may grant the offender's petition and issue an order setting aside the conviction when in the opinion of the court the order will be in the best interest of the offender and consistent with the public welfare. Such The order shall:

(a) Nullify the conviction; and

(b) Remove all civil disabilities and disqualifications imposed as a result of the conviction.

(5) The setting aside of a conviction in accordance with the Nebraska Probation Administration Act shall not:

(a) Require the reinstatement of any office, employment, or position which was previously held and lost or forfeited as a result of the conviction;

(b) Preclude proof of a plea of guilty whenever such plea is relevant to the determination of an issue involving the rights or liabilities of someone other than the offender;

(c) Preclude proof of the conviction as evidence of the commission of the misdemeanor or felony, whenever the fact of its commission is relevant for the purpose of impeaching the offender as a witness, except that the order setting aside the conviction may be introduced in evidence;

(d) Preclude use of the conviction for the purpose of determining sentence on any subsequent conviction of a criminal offense;

(e) Preclude the proof of the conviction as evidence of the commission of the misdemeanor or felony in the event an offender is charged with a subsequent offense and the penalty provided by law is increased if the prior conviction is proved; or

(f) Preclude the proof of the conviction to determine whether an offender is eligible to have a subsequent conviction set aside in accordance with the Nebraska Probation Administration Act; or

(g) Preclude use of the conviction as evidence of commission of the misdemeanor or felony for purposes of determining whether an application filed or a license issued under sections 71-1901 to 71-1905 or 71-1908 to 71-1917

should be denied, suspended, or revoked.

(6) This section shall be retroactive in application and shall apply to all persons, otherwise eligible in accordance with the provisions of this section, whether convicted prior to, on, or subsequent to June 11, 1993.

Sec. 2. Section 43-2601, Reissue Revised Statutes of Nebraska, is amended to read:

43-2601. Sections 43-2601 to 43-2625 and section 21 of this act shall be known and may be cited as the Quality Child Care Act.

Sec. 3. Section 43-2603, Reissue Revised Statutes of Nebraska, is amended to read:

43-2603. The Legislature declares that it shall be the policy of the State of Nebraska to:

(1) Recognize the family as the most important social and economic unit of society and support the central role parents play in raising children. All parents are encouraged to care for and nurture their children through the traditional methods of parental care at home. However, to the extent child care services are early childhood care and education and school-age-care programs are used, parents are encouraged to participate fully in the effort to improve the quality of such programs; child care services;

(2) Promote a variety of culturally and developmentally appropriate child care services programs of high quality;

(3) Promote the growth, development, and safety of children by working with community groups and agencies, including providers and parents, to establish standards for high-quality child care services programs, training of child care providers, fair and equitable monitoring, and salary levels commensurate with provider responsibilities and support services;

(4) Promote equal access to high-quality, affordable, and socioeconomically integrated child care programs for all children and families; and

(5) Facilitate broad community and private sector involvement in the provision of high-quality child care services programs to foster economic development and assist business.

The Legislature supports the full integration of children with special needs into the same child care environments serving children with no identified handicapping conditions.

The Legislature also finds that day family child care homes should be the primary focus in upgrading early childhood child care programs in Nebraska at this time. There is a need for a larger, more visible, and better trained supply of day family child care homes.

Sec. 4. Section 43-2604, Reissue Revised Statutes of Nebraska, is amended to read:

43-2604. The Legislature finds that since the majority of young children of prekindergarten age will continue to be served in private child care settings and early childhood programs, an investment of public resources in upgrading the training levels of staff will be an investment in all the children of the state. Coordination of existing training opportunities offered by agencies would greatly enhance the ability of providers in local communities to gain access to relevant training and would also enhance efforts to provide training which is sensitive to local needs. The Legislature also finds that training which brings together providers staff from various programs can provide a setting in which to initiate and promote collaborative efforts at the local level.

The Legislature finds that the highest priority need for training is for day family child care home providers.

The Legislature further finds that the funding provided by the federal Child Care and Development Block Grant Act of 1990 will provide significant new funding to improve child care and early childhood education and school-age care in Nebraska.

Sec. 5. Section 43-2605, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

Sec. 6. Section 43-2606, Reissue Revised Statutes of Nebraska, is amended to read:

43-2606. (1) The Department of Social Services shall adopt and promulgate rules and regulations for mandatory training requirements for providers of early childhood child care and school-age-care programs. Such requirements shall include preservice orientation and at least four hours of

annual inservice training.

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

(3) The training requirements shall be designed to meet the health, safety, and developmental needs of children and shall be tailored to the needs of licensed providers of early childhood child care programs.

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

Sec. 7. Section 43-2607, Revised Statutes Supplement, 1994, is amended to read:

43-2607. There is hereby created the Early Childhood Program Training Fund. The fund shall be administered by the State Department of Education and shall be used to enhance, provide, and coordinate training for providers of early childhood programs. Emphasis shall be placed on the coordination of and dissemination of information about existing training opportunities. Such training may include:

(1) Programs targeted to parents needing or using child care to assist them in selecting optimum child care settings;

(2) Specialized training regarding the care of children with special needs; and

(3) Programs concerning health, safety, or developmental needs of children.

The department may contract with any public or private entity to provide such training. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 8. Section 43-2608, Reissue Revised Statutes of Nebraska, is amended to read:

43-2608. The Department of Social Services shall establish a statewide toll-free hotline to provide immediate responses to the needs of providers of early childhood programs. Such hotline may be operated by the department, or the department may contract with a state agency or with any other public or private entity capable of providing such service to operate the hotline.

Sec. 9. Section 43-2609, Reissue Revised Statutes of Nebraska, is amended to read:

43-2609. (1) The Legislature finds that a system of voluntary registration would provide a mechanism for participation in the food programs offered by the United States Department of Agriculture, for eligibility to receive funds under the Title XX federal Child Care Subsidy program, for support and assistance to unlicensed day family child care home providers, and for voluntary participation in training.

(2) The Department of Social Services shall institute a system of voluntary registration for day family child care homes not required to be licensed under section 71-1911. The department shall promulgate standards for such voluntary registration. The department shall not make payments for child care services, from any state or federal funds, to any day family child care home provider not voluntarily registered under this section.

(3) The department shall issue a certificate of registration to any day family child care home provider registered pursuant to this section.

(4) For purposes of implementing voluntary registration, the department may contract with day family child care home associations or full-service community-based agencies to carry out such voluntary registration procedures for the department.

Sec. 10. Section 43-2610, Reissue Revised Statutes of Nebraska, is amended to read:

43-2610. (1) There is hereby established the Family Child Care Rules and Regulations Advisory Committee to advise the Department of Social Services on all aspects of the rules and regulations concerning day family child care homes licensed by the department. The advisory committee shall be comprised of at least ten members, seven of whom shall be day family child care home providers and three of whom shall be parents. Two providers shall be appointed from each congressional district, and one provider shall be appointed at large. One parent shall be appointed from each congressional district. The members of the advisory committee shall be appointed by the Director of Social Services.

(2) The initial members of the advisory committee shall be appointed for staggered terms of one, two, and three years so that no more than

one-third, rounded to the next higher whole number, of the members of the committee shall turn over in any given year. Following initial appointments to the advisory committee, appointments shall be for terms of three years. No member shall serve more than two terms on the committee. Members shall be reimbursed for their actual and necessary expenses, including child care, as provided in sections 81-1174 to 81-1177.

(3) The advisory committee shall meet at least twice a year but may meet more often at the request of the director or a majority of the committee members. Meetings shall be scheduled on a rotating basis so that a meeting is held in each congressional district.

Sec. 11. Section 43-2611, Reissue Revised Statutes of Nebraska, is amended to read:

43-2611. There is hereby established the Child Care and Early Childhood Education Coordinating Committee to provide coordination and communication between state agencies responsible for child care and early childhood education services. The coordinating committee shall be composed of at least sixteen members, at least five of whom shall be residents of the third congressional district. The members shall include:

(1) One representative each from the Nebraska Commission on the Status of Women, the Department of Economic Development, the Department of Social Services, and the State Department of Education;

(2) At least one representative of day family child care home providers and one representative of day child care center providers;

(3) At least one specialist in working with young children with disabilities;

(4) At least one early childhood development expert;

(5) At least one representative of school districts involved in the provision of before-and-after-school services or preschool programs;

(6) At least one parenting education specialist;

(7) At least one representative of resource and referral programs;

(8) One pediatrician or other pediatric health care professional;

(9) At least one representative of a college, community college, or university that provides child care to its students or employees;

(10) At least one representative of a citizens group or other group concerned with child care;

(11) At least one representative of a labor organization;

(12) At least one representative of a Head Start agency;

(13) At least one employer who provides child care assistance to employees; and

(14) Parents of children receiving or in need of child care.

The commission and departments shall select their representatives to the coordinating committee. The Governor shall appoint the remaining members considering recommendations submitted by professional associations and other groups interested in child care and early childhood education services. The Governor shall appoint the chairperson of the coordinating committee. The chairperson shall not be from the Department of Social Services or from the State Department of Education.

The executive committee of the coordinating committee shall consist of the chairperson of the coordinating committee, the representatives of the Department of Social Services and the State Department of Education, and the chairpersons of any standing subcommittees established by the coordinating committee.

Sec. 12. Section 43-2612, Reissue Revised Statutes of Nebraska, is amended to read:

43-2612. The Department of Social Services shall provide administrative support for the Child Care and Early Childhood Education Coordinating Committee, shall be within the Department of Social Services for administrative purposes only. Staff support for the coordinating committee shall be provided by the State Department of Education and the Department of Social Services on an ongoing cooperative basis. Staff from other state agencies involved in child care and early childhood education shall be utilized and provided as appropriate.

Sec. 13. Section 43-2613, Reissue Revised Statutes of Nebraska, is amended to read:

43-2613. The initial members of the Child Care and Early Childhood Education Coordinating Committee shall be appointed for staggered terms of one, two, and three years so that no more than one-third, rounded to the next higher whole number, of the appointed members shall turn over in any given year. Following initial appointments to the coordinating committee, appointments shall be for terms of three years. Members shall be reimbursed by the Department of Social Services for their actual and necessary expenses, including child care, as provided in sections 81-1174 to 81-1177.

Sec. 14. Section 43-2614, Reissue Revised Statutes of Nebraska, is amended to read:

43-2614. The Child Care and Early Childhood Education Coordinating Committee shall, on or before September 1, 1991, subject to federal funding cycles, submit to the Governor and the Commissioner of Education its recommendations to implement the federal Child Care and Development Block Grant Act of 1990. Such plan shall include the provisions of the Quality Child Care Act and other federal and state child care and early childhood education initiatives as appropriate. The committee shall review and comment upon the plans to implement the federal Child Care and Development Block Grant Act of 1990 prior to submission of the plans to the appropriate federal agency.

Sec. 15. Section 43-2615, Reissue Revised Statutes of Nebraska, is amended to read:

43-2615. To the extent possible, the Child Care and Early Childhood Education Coordinating Committee shall:

(1) Serve as an advisory coordinator for all state agencies responsible for child care, early childhood programs, and early childhood education for the purpose of improving communication and interagency coordination. The coordinating committee shall annually review state programs and make recommendations to the agencies and the Legislature which will maximize funding and promote furtherance of the policies set forth in the Quality Child Care Act;

(2) Review and propose changes to the child care Title XX federal Child Care Subsidy program, including the adequacy of the sliding fee schedule;

(3) Review administration of any child care expansion grant program;

(4) Review and provide input toward the improvement of the quantity and quality of child care in the state, including advice to state agencies in their implementation of existing federal law and regulations as well as planning for future available federal funding;

(5) Review rules and regulations or proposed revisions to existing rules and regulations governing the registration or licensing of early childhood programs;

(6) Advise the Director of Social Services on the administration of the department's licensing responsibilities of the Department of Social Services related to early childhood programs section 71-1910;

(7) Make recommendations to the Director of Social Services, the State Board of Education, the State Department of Education, and all other state agencies involved in the regulation or provision of child care programs, early childhood programs, and early childhood education on the needs, priorities, programs, and policies relating to child care and early childhood education throughout the state;

(8) Study and recommend additional resources for child care programs, early childhood programs, and early childhood education;

(9) Review and provide advice concerning the availability of employment-related child care;

(10) Advise the Department of Social Services as to whether separate standards are needed for before-and-after-school day child care programs;

(11) Report annually to the Governor and Legislature on the status of child care and early childhood education, including information about licensed programs, Head Start programs administered by the State Department of Education, early childhood education staff training, state accreditation, program compliance with immunization reporting requirements pursuant to section 71-1913.01, and the information required pursuant to section 71-1917. The report shall contain the following data from the child care complaint tracking system: Complaints by license type; allegations and substantiations by licensing rule and by county; and negative licensing actions by the Department of Social Services, including suspensions, probationary licenses issued, revocations, denials, and emergency orders. The report shall include such findings and recommendations as are needed for the improvement of child care programs, early childhood programs, and early childhood education in the State of Nebraska; and

(12) Make recommendations as to the need for separate licensing requirements for programs providing child care for children who are medically fragile or technologically dependent and, if such a need is determined, make recommendations as to what the standards shall be.

Before making recommendations as outlined by this section, the coordinating committee shall hold public hearings and invite suggestions from parents of children utilizing child care services, and from other interested parties. At least one public hearing shall be held in the third congressional district.

Sec. 16. Section 43-2616, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 17. Section 43-2617, Reissue Revised Statutes of Nebraska, is amended to read:

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

Sec. 18. Section 43-2618, Reissue Revised Statutes of Nebraska, is amended to read:

43-2618. All day family child care homes required to be licensed under section 71-1911 or which are registered pursuant to section 43-2609 shall be inspected within sixty days of licensure or registration. All such day family child care homes shall be inspected at least every two years thereafter. It is the intent of the Legislature that such day family child care homes be inspected annually if sufficient funds are made available under the federal Child Care and Development Block Grant Act of 1990 for such purposes.

Sec. 19. Section 43-2620, Reissue Revised Statutes of Nebraska, is amended to read:

43-2620. The Department of Social Services and the office for child development and early childhood education services State Department of Education shall collaborate in their activities and may:

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

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

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

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

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

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

(7) Provide training for child care providers as authorized in sections 79-3701 to 79-3703;

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

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

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

(11) Provide and coordinate staff assistance to the Child Care and Early Childhood Education Coordinating Committee;

(12) At least biennially, develop an inventory of child care programs and early childhood education programs provided to children in Nebraska and identify the number of children receiving and not receiving such services, the types of programs under which the services are received, and the reasons children not receiving the services are not being served; and

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

Sec. 20. Section 43-2624, Reissue Revised Statutes of Nebraska, is amended to read:

43-2624. The Department of Social Services shall award grants on a one-time-only basis to persons, community-based organizations, or schools needing assistance to start or improve a child care program, or to existing licensed child care providers, including day care homes, for the purpose of

making capital improvements necessary to meet licensure requirements or the purchase of equipment in order to expand services or to accommodate handicapped children, sick children, or infants. No grant shall exceed ten thousand dollars. Startup costs shall not include operational costs after the first three months of business. A recipient of a grant shall not be eligible for a grant more than once in a three-year period. Child care grants shall be awarded on the basis of need for the proposed services in the community. Grants shall be given only to grantees who do not discriminate against handicapped children with disabilities or children whose care is funded by any state or federal funds. When considering grant applications of equal merit, the department shall award the grant to the applicant which has not previously received a grant from the Child Care Grant Fund.

Sec. 21. The State Board of Education may adopt and promulgate reasonable rules and regulations to establish the voluntary accreditation process referred to in subdivision (10) of section 43-2620.

Sec. 22. Section 68-1206, Revised Statutes Supplement, 1994, is amended to read:

68-1206. The Director of Social Services shall administer the program of social services in this state. The Department of Social Services may contract with other social agencies for the purchase of social services at rates not to exceed those prevailing in the state or the cost at which the department could provide those services. The statutory maximum payments for the separate program of aid to dependent children shall apply only to public assistance grants and shall not apply to payments for social services.

In determining the rate or rates to be paid by the department for child care as defined in section 43-2605, the director shall adopt a fixed-rate schedule for the state or a fixed-rate schedule for an area of the state applicable to each early childhood child care program category of provider as defined in section 71-1910 which may claim reimbursement for services provided by the ~~Title XX~~ federal Child Care Subsidy program, except that the department shall not pay a rate higher than that charged by an individual provider to that provider's private clients. The schedule may provide separate rates for care for infants, for children with special needs, including disabilities or technological dependence, or for other individual categories of children. The schedule shall be effective on October 1 of every year and shall be revised by the director annually.

Sec. 23. Section 71-901, Revised Statutes Supplement, 1994, is amended to read:

71-901. (1) The Department of Health shall inquire into the whole system of public charities and methods and practices in the public and correctional institutions of the state, counties, and cities to ascertain the condition thereof from time to time by inspection or otherwise, especially of prisons, jails, infirmaries, public hospitals, including hospitals for persons with a mental disorder and persons with mental retardation, all correctional institutions, including the Youth Rehabilitation and Treatment Center-Kearney and the Youth Rehabilitation and Treatment Center-Geneva, and industrial schools.

(2) The Department of Health shall make at least one inspection every year of each state public and correctional institution, which inspection may be unannounced, and such inspections shall not require the permission of any director of the department or of the institution to be inspected. The inspection of state public and correctional institutions shall include an inspection of the dietary facilities at the institution.

(3) The Department of Health shall enforce this section and all other statutes pertaining to public health and sanitation with respect to the public and correctional institutions of the state, counties, and cities. The department shall adopt, promulgate, and enforce necessary rules and regulations for carrying out this section. It may also adopt and promulgate rules and regulations supplementing but not inconsistent with this section.

(4) The Department of Health shall make an investigation and report to the Department of Social Services, within thirty days after receipt of the request by the Department of Social Services, of all facilities and programs of licensed providers of early childhood child care programs as defined in section 71-1910 or child foster care programs subject to section 71-1903 or applicants for licenses to provide such programs to determine if the place or places to be covered by such licenses meet standards of health and sanitation set by the Department of Social Services for the care and protection of the child or children who may be placed in such facilities and programs. The Department of Health may delegate this authority to qualified local environmental health personnel.

Sec. 24. Section 71-1901, Revised Statutes Supplement, 1994, is amended to read:

71-1901. ~~As used in For purposes of~~ 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 Department shall mean the Department of Social Services;~~
 and

(4) ~~Foster care shall mean engaged in the business service of exercising twenty-four-hour daily care, supervision, custody, or control over children, for compensation or hire, in lieu of the care or supervision normally exercised by parents in their own home. Foster care 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. 25. Section 71-1902, Reissue Revised Statutes of Nebraska, is amended to read:

71-1902. No person shall furnish or offer to furnish ~~child foster care~~ for two or more children from different families without having in full force and effect a written license issued by the department upon such terms and conditions as may be prescribed by general rules and regulations adopted and promulgated by the department. ~~After July 10, 1990, no~~ ~~No~~ license shall be issued pursuant to this section unless the applicant has completed the required hours of training in foster care as prescribed by the department. All licenses issued under sections 71-1901 to 71-1905 shall expire one year from the date of issuance and shall be subject to renewal under the same terms and conditions as the original license. ~~After July 10, 1990, no~~ ~~No~~ license issued pursuant to this section shall be renewed unless the licensee has completed the required hours of training in foster care in the preceding twelve months as prescribed by the department. For the issuance or renewal of each license, the department shall charge a fee of twenty-five dollars for a group ~~homes home~~, twenty-five dollars for a child-caring ~~ageneies agency~~, and twenty-five dollars for a child-placing ~~ageneies agency~~. A license may be revoked for cause, after notice and hearing, in accordance with rules and regulations ~~prescribed adopted and promulgated~~ by the department.

For purposes of this section:

(1) Foster family home shall mean any home which provides twenty-four-hour care to children who are not related to the foster parent by blood or adoption;

(2) Group home shall mean a home which is operated under the auspices of an organization which is responsible for providing social services, administration, direction, and control for the home and which is designed to provide twenty-four-hour care for ~~individuals children and youth~~ in a residential setting;

(3) Child-caring agency shall mean an organization which is incorporated for the purpose of providing care for children in buildings maintained by the organization for that purpose; and

(4) Child-placing agency shall mean an organization which is authorized by its articles of incorporation and by its license to place children in foster family homes.

Sec. 26. Section 71-1903, Revised Statutes Supplement, 1994, is amended to read:

71-1903. Before issuance of a license ~~under sections 71-1901 to 71-1905~~, the department shall cause such investigation to be made as it deems necessary to determine if the character of the applicant, any member of the applicant's household, or the person in charge of the ~~business service~~ and the place where the ~~child foster~~ care is to be furnished are such as to ensure the proper care and treatment of children. The department may investigate the character of prospective or existing licensees, any member of such licensee's household, and the staff and employees of ~~child foster care facilities~~ by making a national criminal ~~records history record information~~ check. The department may request the State Fire Marshal to inspect such places for fire safety pursuant to section 81-502. The State Fire Marshal shall assess a fee for such inspection pursuant to section 81-505.01, ~~and~~ payable by the licensee or applicant for a license, except that the department may pay the fee for inspection for fire safety of foster family homes as defined in section 71-1902. ~~The department~~ ~~Department of Social Services~~ may request the Department of Health to inspect such places to determine if they meet sanitation and health standards set by the Department of Social Services for the care and protection of such children. The authority to make such investigations may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the Department of Health. The Department of Social Services may

also, at any time it sees fit, cause an inspection to be made of the place where any licensee is furnishing child foster care to see that such business service is being properly conducted.

Sec. 27. Section 71-1904, Reissue Revised Statutes of Nebraska, is amended to read:

71-1904. The department shall adopt and promulgate rules and regulations pursuant to sections 71-1901 to 71-1905 for (1) the proper care and protection of children by licensees under such sections, (2) the issuance, suspension, and revocation of licenses to carry on the business of child provide foster care, (3) the provision of training in foster care, which training shall be directly related to the skills necessary to care for children in need of out-of-home care, including, but not limited to, abused, neglected, dependent, and delinquent children, and (4) the proper administration of such sections. The training required by subdivision (3) of this section shall be between twelve and twenty-four hours as determined by the department.

Sec. 28. Section 71-1907, Revised Statutes Supplement, 1994, is amended to read:

71-1907. Any person furnishing child foster care who is subject to licensure under section 71-1902, when transporting in a motor vehicle any children for whom care is being furnished, shall use an approved child passenger restraint system for each child, except that an occupant protection system as defined in section 60-6,265 may be used for any child weighing forty or more pounds or four years of age or more.

Any person violating this section shall be guilty of an infraction as defined in section 29-431 and shall have his or her license to furnish child foster care revoked or suspended by the Department of Social Services.

For purposes of this section, approved child passenger restraint system shall mean a restraint system which meets Federal Motor Vehicle Safety Standard 213 as developed by the National Highway Traffic Safety Administration as of July 17, 1982.

Sec. 29. Section 71-1908, Reissue Revised Statutes of Nebraska, is amended to read:

71-1908. The Legislature finds that there is a present and growing need for quality day care and other early childhood child care programs and facilities. There is a need to establish and maintain licensure of providers of all such services and early childhood programs to ensure that providers are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of day care and other early childhood programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on providers of day care and other early childhood programs, and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

Sec. 30. Section 71-1909, Reissue Revised Statutes of Nebraska, is amended to read:

71-1909. (1) The purpose purposes of sections 71-1908 to 71-1918 ~~is~~ 71-1917 are to provide:

(a) ~~(1)~~ Statewide licensing of providers of early childhood child care programs; and

(b) ~~(2)~~ The Department of Social Services with authority to coordinate the imposition of standards on providers of early childhood programs.

(2) It is the intent of the Legislature that the licensing and regulation of programs under such sections exist for the protection of children and to assist parents in making informed decisions concerning enrollment and care of their children in such programs.

Sec. 31. Section 71-1910, Revised Statutes Supplement, 1994, is amended to read:

71-1910. For purposes of sections 71-1908 to ~~71-1918~~ 71-1917, unless the context otherwise requires:

(1) Department shall mean the Department of Social Services;

(2) Director shall mean the Director of Social Services; and

(3) Program shall mean the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day, but more than two hours per week, and shall include any employer-sponsored child care, family child care home, child care center, school-age child care program, school-age services pursuant to section 79-444, or preschool or nursery school. Program shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization

other than child care or a preschool or nursery school, a preschool program conducted in a school approved pursuant to section 79-328, or foster care as defined in section 71-1901. The State Board of Education may adopt and promulgate rules and regulations which shall apply to any program and any school-age-care program operated or contracted by a public school district. Early childhood program or program shall mean the provision of services in lieu of parental supervision for children under thirteen years of age for compensation, either directly or indirectly, on the average of less than twelve hours per day; but more than two hours per week; and shall include any employer-sponsored day care, family day care home, day care center, before-and-after-school day care program, before-and-after-school services pursuant to section 79-444; or preschool or nursery school but shall not include casual care at irregular intervals, a recreation camp, classes or services provided by a religious organization other than day care or preschool or nursery schools; a preschool program conducted in a school approved pursuant to section 79-328; or child care as defined in section 71-1901.

Sec. 32. Section 71-1911, Revised Statutes Supplement, 1994, is amended to read:

71-1911. (1) A person may furnish a program for three or less children without having a license issued by the department, except that if such person has had a license issued pursuant to subsection (2) of this section and such license has been suspended or revoked pursuant to section 71-1915, such person shall not furnish a program for three or less children until the person is licensed pursuant to this section.

(2) No person shall furnish or offer to furnish a program for four or more children under his or her direct supervision, care, and control at any one time from families other than that of the provider without having in full force and effect a written license issued by the department upon such terms as may be prescribed by the rules and regulations adopted and promulgated by the department. The license may be a provisional license, a probationary license, or an operating license. A city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs. If the license of a person is suspended or revoked pursuant to section 71-1915, such person shall not be licensed by any city, village, or county rules, regulations, or ordinances until the person is licensed pursuant to this section. Any provider not covered by sections 71-1908 to 71-1918 71-1917 may voluntarily subject himself, herself, or itself to coverage.

(3) A provisional license shall be issued to all applicants for the first year of operation. At the end of one year of operation the department shall either issue an operating license or renew or refuse to renew the provisional license. The provisional license may be renewed once if the department determines that:

(a) A licensee is unable to comply with all licensure requirements and standards, is making a good faith effort to comply, and is capable of compliance within the next six months;

(b) The effect of the current inability to comply with a rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the department which is to be completed within the renewal period.

(4) The department may issue a probationary license to a licensee holding an operating license for up to six months. The probationary license may be issued if the department determines that:

(a) A licensee is unable to comply with all licensure requirements and standards or has had a history of noncompliance;

(b) The effect of noncompliance with any rule or regulation does not present an unreasonable risk to the health, safety, or well-being of children or staff; and

(c) The licensee has a written plan of correction that has been approved by the department.

(5) Operating licenses issued under sections 71-1908 to 71-1918 71-1917 shall expire two years from the date of issuance and shall be subject to renewal under such terms as may be prescribed by the rules and regulations of the department in effect at the time of the renewal.

(6) There shall be a twenty-five-dollar fee charged for the issuance or renewal of each license for providers with a licensing capacity of less than thirty children and a fifty-dollar fee charged for the issuance or renewal of each license for providers with a licensing capacity of thirty or more children. The license fee shall be paid to the department which shall retain the fee, except that when a city, village, or county has adopted any

rule, regulation, or ordinance which establishes standards for licensed providers pursuant to subsection (2) of section 71-1914 and conducts all necessary inspections of any licensed provider pursuant to such subsection, the department shall transmit the license fee paid by such provider to the city, village, or county conducting the inspections.

(7) A license may be denied for cause, after notice and hearing, in accordance with such rules and regulations as may be adopted and promulgated by the department. A person who has had a license suspended or revoked pursuant to section 71-1915 shall not be eligible to reapply for a license for a period of two years.

(8) A license shall be denied or revoked if an applicant or licensee has been found guilty of a crime involving the neglect, physical abuse, or sexual abuse of a child or an adult.

~~(9) In order to assist the department in the performance of the duties prescribed in this section, the Legislature shall appropriate such funds as are necessary to the department to enable the department to employ four additional licensing specialists.~~

Sec. 33. Section 71-1912, Reissue Revised Statutes of Nebraska, is amended to read:

71-1912. (1) The department shall adopt and promulgate rules and regulations establishing standards for the physical well-being, safety, and protection of children pursuant to the licensing of providers. Such standards shall insure that the provider of a program is providing proper care for and treatment of the children served and that such care and treatment is consistent with the children's physical well-being, safety, and protection. Such standards shall not require the use of any specific instructional materials or affect the contents of any course of instruction which may be offered by a program. Before issuance or renewal of a license, the department shall investigate or cause an investigation to be made, when it deems necessary, to determine if the applicant or person in charge of the program meets or is capable of meeting the physical well-being, safety, and protection standards and the other rules and regulations of the department. The department may investigate the character of prospective or existing licensees, any member of the licensee's household, and the staff and employees of early childhood programs by making a national criminal records history record information check. The department may at any time inspect or cause an inspection to be made of any place where a program is operating to determine if such program is being properly conducted.

(2) The rules and regulations adopted and promulgated pursuant to subsection (1) of this section shall contain provisions which encourage the involvement of parents in child care for their children and insure the availability, accessibility, and high quality of services for children in day family child care homes. The rules and regulations shall be adopted and promulgated pursuant to the Administrative Procedure Act, except that the department shall hold a public hearing in each geographic area of the state prior to the adoption, amendment, or repeal of any rule or regulation. A review of the rules and regulations for day care homes as such rules and regulations existed on January 1, 1988, shall be conducted by the department and shall be completed on or before January 1, 1989.

Sec. 34. Section 71-1913, Revised Statutes Supplement, 1994, is amended to read:

71-1913. The department may request the State Fire Marshal to inspect any early childhood program for fire safety pursuant to section 81-502 and may request the Department of Health to inspect any program to determine if it meets sanitation and physical well-being standards of the Department of Social Services for the care and protection of the children pursuant to section 71-901. The authority to make such inspections may be delegated to qualified local fire prevention personnel pursuant to section 81-502 or to qualified local environmental health personnel by the Department of Health. The State Fire Marshal and the Director of Health shall immediately notify the Department of Social Services whenever they delegate authority for such inspections.

Sec. 35. Section 71-1913.01, Revised Statutes Supplement, 1994, is amended to read:

71-1913.01. (1) Each early childhood program shall require the parent or guardian of each child enrolled in such program to present within thirty days of after enrollment and periodically thereafter (a) proof that the child is protected by age-appropriate immunization against measles, mumps, rubella, poliomyelitis, diphtheria, pertussis, tetanus, and haemophilus influenzae type B and such other diseases as the Department of Health may from time to time specify based on then current medical and scientific knowledge, (b) certification by a physician, certified nurse practitioner, or physician

assistant that immunization is not appropriate for a stated medical reason, or (c) a written statement that the parent or guardian does not wish to have such child so immunized and the reasons therefor. The early childhood program shall exclude a child from attendance until such proof, certification, or written statement is provided. At the time the parent or guardian is notified that such information is required, he or she shall be notified in writing of his or her right to submit a certification or written statement pursuant to subdivision (b) or (c) of this subsection.

(2) Each early childhood program shall keep a written record of immunization, the certification, or the written statement of the parent or guardian. Such record, certification, or statement shall be kept by the early childhood program as part of the child's file, and shall be available to the Department of Social Services, and shall be filed with the Department of Health for review and inspection. Each early childhood program shall report to the Department of Health by November 1 of each year the status of immunization for children enrolled as of September 30 of that year.

Sec. 36. Section 71-1913.02, Reissue Revised Statutes of Nebraska, is amended to read:

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

(2) If the Department of Health discovers noncompliance with section 71-1913.01, the Department of Health shall allow early childhood programs a noncomplying program thirty days to correct deficiencies. If deficiencies are not corrected, the Department of Health shall notify the Department of Social Services in writing within five working days. The Department of Social Services shall notify the Department of Health of any action taken as a result of such report.

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

Sec. 37. Section 71-1913.03, Revised Statutes Supplement, 1994, is amended to read:

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

Sec. 38. Section 71-1914, Reissue Revised Statutes of Nebraska, is amended to read:

71-1914. (1) The department shall be the state's coordinating agency for regulating early childhood programs in this state in order to (a) provide efficient services pursuant to sections 71-1908 to 71-1918 71-1917, (b) avoid duplication of services, and (c) prevent an unnecessary number of inspections of any program. The department may request cooperation and assistance from local and state agencies and such agencies shall promptly respond. The extent of an agency's cooperation may be included in the department's report to the Legislature pursuant to section 71-1917.

(2) A city, village, or county may adopt rules, regulations, or ordinances establishing physical well-being and safety standards for providers of programs whether or not such providers are subject to licensure under section 71-1911. If a city, village, or county adopts any rules, regulations, or ordinances establishing physical well-being and safety standards for providers subject to licensure under section 71-1911, (a) such rules, regulations, or ordinances shall be identical to the department's rules and regulations for licensed providers pursuant to sections 71-1908 to 71-1918 71-1917, except that a city, village, or county which has rules, regulations, or ordinances in effect on July 10, 1984, which apply to programs furnished for two or three children from different families may continue to license providers of such programs, and (b) the city, village, or county and the department shall coordinate the inspection and supervision of licensed providers to avoid duplication of inspections. A city, village, or county shall report any violation of its rules, regulations, or ordinances regulating providers subject to licensure to the director who may cause a written charge to be brought pursuant to section 71-1915. The city, village, or county may

administer and enforce its rules, regulations, and ordinances establishing physical well-being and safety standards for providers of programs, except that the exclusive remedy for the violation of any rules, regulations, and ordinances regulating providers subject to licensure pursuant to section 71-1911 shall be by the director pursuant to section 71-1915.

Sec. 39. Section 71-1915, Revised Statutes Supplement, 1994, is amended to read:

71-1915. (1) Whenever the director has reason to believe that a violation of any provision of sections 71-1908 to 71-1914 or of any rule, regulation, or order of the department has occurred, he or she may cause a written charge to be served upon each alleged violator. The charge shall specify the provision of sections 71-1908 to 71-1914 or the rule, regulation, or order alleged to be violated and the facts alleged to constitute a violation of such section, rule, regulation, or order. The provisional or probationary license of a person may be suspended or revoked if periodic review or inspection by the department indicates that insufficient progress has been made toward compliance. The director shall provide for notice and, if requested by the alleged violator, a full and fair hearing at which each alleged violator shall answer the charges. The notice shall be delivered to each alleged violator by personal service, by certified or registered mail to his or her last-known address, or by publication. Notice by publication shall only be made if personal service or service by mail cannot be effectuated. The alleged violator may request a hearing within ten days of after delivery of the notice. Following the hearing, if held, or within fifteen days of after delivery of the notice if no hearing is held, the director shall determine whether the charges are true or not, and if true, the director may (a) issue a declaratory order finding the charges to be true, (b) revoke or suspend the provisional, probationary, or operating license, (c) issue a probationary license if the determinations of subsection (4) of section 71-1911 are applicable, or (d) impose a civil penalty of five dollars for each child in the program for each day in violation after the department issues its order finding a violation. If the department has initiated a license suspension or revocation action, (i) such action may continue to finality even if the license of the licensee has been surrendered and (ii) household members of the licensee or current staff members of such licensee shall not become the licensee of the program while such action is pending.

(2) Any civil penalty assessed and unpaid under subsection (1) of this section shall constitute a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in any proper form of action in the name of the State of Nebraska in the district court of the county in which the violator resides or owns property.

(3) Whenever the director finds that an emergency exists requiring immediate action to protect the physical well-being and safety of a child in an early childhood program, the director may, without notice or hearing, issue an order declaring the existence of such an emergency and requiring that such action be taken as the director deems necessary to meet the emergency. Notwithstanding the provisions of subsection (1) of this section, such order shall be effective immediately. Any person to whom the order is directed shall comply immediately, except that upon application to the director, the person shall be afforded a hearing as soon as possible and not later than ten days after his or her application for the hearing. On the basis of such hearing the director shall continue to enforce his or her order or revoke or modify it.

(4) In addition to the powers provided to the director in this section, he or she may petition the appropriate district court for an injunction whenever he or she believes that any person is violating any provision of sections 71-1908 to ~~71-1918~~ 71-1917 or any rule, regulation, or order adopted and promulgated pursuant to such sections. It shall be the duty of each county attorney or the Attorney General to whom the director reports a violation to cause appropriate proceedings to be instituted without delay to ensure compliance with such sections, rules, regulations, and orders.

Sec. 40. Section 71-1916, Reissue Revised Statutes of Nebraska, is amended to read:

71-1916. The department shall adopt and promulgate such rules and regulations, consistent with sections 71-1908 to 71-1915, as it shall deem necessary for (1) the proper care and protection of children by providers under such sections, (2) the issuance, suspension, and revocation of licenses for early childhood program providers, and (3) the proper administration of such sections. Hearings conducted by the department pursuant to section 71-1915 and any other contested cases of the department shall be in accordance with the Administrative Procedure Act. An appeal may be taken from the decision of the department. ~~The~~ The ~~7~~ which appeal shall be in accordance with

the Administrative Procedure Act act.

Sec. 41. Section 71-1917, Reissue Revised Statutes of Nebraska, is amended to read:

71-1917. The department shall file an annual report with the Clerk of the Legislature, which shall be available to any member of the Legislature upon request. The report required under subdivision (11) of section 43-2615 shall include:

(1) The number of license applications received under sections 71-1908 to 71-1917;

(2) The number of licenses issued under such sections;

(3) The number of license applications denied under such sections;

(4) The number of complaints investigated under such sections;

(5) The number of licenses revoked under such sections;

(6) The number and dollar amount of civil penalties levied pursuant to section 71-1915; and

(7) Information which may assist the Legislature in determining the extent of cooperation provided to the department by other state and local agencies pursuant to section 71-1914.

Sec. 42. Section 79-444, Reissue Revised Statutes of Nebraska, as amended by section 1, Legislative Bill 214, Ninety-fourth Legislature, First Session, 1995, is amended to read:

79-444. (1) Except as provided in subsection (2) of this section, the board of education of any school district shall not admit any child into the kindergarten or beginner grade of any school of such school district unless such child has reached the age of five years or will reach such age on or before October 15 of the current year.

(2) The board of education may admit a child who will reach the age of five between October 16 and February 1 of the current school year if the parent or guardian requests such entrance and provides an affidavit stating that (a) the child attended kindergarten in another jurisdiction in the current school year or (b) the family anticipates a relocation to another jurisdiction within the current year.

(3) The board of education may require a birth certificate prior to entrance of a child into the beginner grade and shall require evidence of a physical examination by a physician, physician assistant, or nurse practitioner within six months prior to the entrance of a child into the beginner grade and the seventh grade or, in the case of a transfer from out of state, to any other grade of the local school, except that no such physical examination shall be required of any child whose parent or guardian objects in writing. The cost of such physical examination shall be borne by the parent or guardian of each child who is examined.

(4) Any board of education in its discretion may (a) establish and financially support programs, including programs providing before-and-after-school or preschool services, to which attendance shall be voluntary and which the board may deem beneficial to the education of prekindergarten or school-age children and (b) provide or financially support transportation for children to, from, or to and from early childhood programs as defined in section 71-1910. The board may charge a fee, not to exceed the actual cost, for providing such programs and services but may waive such fee on the basis of need. This section shall not be construed to allow any school district to fail to meet its responsibilities under the Special Education Act.

Sec. 43. Section 79-3322, Reissue Revised Statutes of Nebraska, is amended to read:

79-3322. (1) The school board or board of education shall provide one of the following types of services to the handicapped children who are residents of the school district:

(a) Provide for the transportation expenses for handicapped children who are forced to leave the school district temporarily because of lack of educational services. A parent or guardian transporting such child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one handicapped child in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;

(b) Provide for the transportation expenses within the school district of any handicapped child who is enrolled in a special educational program of the district when either (i) the child is required to attend a facility other than what would be the normal school or attendance facility of the child to receive appropriate special educational services or (ii) the

nature of the child's handicapping condition is such that special transportation is required. A parent or guardian transporting such child shall be paid for each day of attendance at the mileage rate provided in section 81-1176 for each actual mile or fraction thereof traveled between the place of residence and the program of attendance, and when any parent or guardian transports more than one child in his or her custody or control enrolled in programs at the same location, the amount of payments to such parent or guardian shall be based upon the transportation of one child. No transportation payments shall be made to a parent or guardian for mileage not actually traveled by such parent or guardian;

(c) Provide visiting teachers for the homebound handicapped child; such teachers to children, which teachers shall be certified and qualified in the same manner as required for other teachers in Nebraska;

(d) Provide correspondence instruction approved by the Commissioner of Education; or

(e) Provide any other method of instruction approved by the Commissioner of Education.

(2) When a handicapped child resides in or attends a preschool or day child care program in a school district other than the district of residence of his or her parents or guardian, the nonresident school district may, upon mutual agreement with the resident school district, provide for the transportation expenses of the child.

Sec. 44. Section 81-502, Reissue Revised Statutes of Nebraska, is amended to read:

81-502. (1) It shall be the duty of the State Fire Marshal, under authority of the Governor:

(a) To enforce all laws of the state relating to the suppression of arson and investigation of the cause, origin, and circumstances of fires;

(b) To promote safety and reduce loss by fire;

(c) To make an investigation for fire safety of the premises and facilities of:

(i) Liquor establishments for which a license or renewal of a license is sought, upon request of the Nebraska Liquor Control Commission, pursuant to section 53-119.01;

(ii) Licensed child foster care facilities or applicants for licenses for child foster care facilities, upon request by the Department of Social Services, pursuant to section 71-1903;

(iii) Licensed providers of early childhood programs or applicants for licenses to provide such programs, upon request of the Department of Social Services, pursuant to section 71-1913. The State Fire Marshal shall report the results of the investigation to the department within thirty days after receipt of the request from the department;

(iv) Licensed hospitals, skilled nursing facilities, intermediate care facilities, or other facilities or institutions which are mentioned in subdivision (1) of section 71-2017 or applicants for licenses for such facilities or institutions, upon request by the Department of Health, pursuant to section 71-2022; and

(v) Mobile home parks for which a license or renewal of a license is sought, upon request of the Department of Health, pursuant to section 71-4635; and

(d) After a careful study and investigation of relevant data ~~bearing thereon~~, to adopt, promulgate, alter, and enforce, through inspections and code compliance orders, rules, and regulations covering:

(i) The prevention of fires;

(ii) The storage, sale, and use of flammable liquids, combustibles, and fireworks;

(iii) Electric wiring and heating, protection equipment devices, materials, furnishings, and other safeguards within the structure necessary to promote safety and reduce loss by fire, and the means and adequacy of exits, in case of fire, in assembly, educational, institutional, residential, mercantile, office, storage, and industrial-type occupancies as such structures are defined in the National Fire Protection Association, Pamphlet Number 101, and associated pamphlets, and all other buildings, structures, and enclosures in which numbers of persons congregate from time to time for any purpose whether privately or publicly owned;

(iv) Design, construction, location, installation, and operation of equipment for storing, handling, and utilization of liquefied petroleum gases, specifying the odorization of such gases and the degree thereof;

(v) Chemicals, prozilyn plastics, X-ray nitrocellulose films, or any other hazardous material that may now or hereafter exist;

(vi) Tanks used for the storage of regulated substances pursuant to the Petroleum Products and Hazardous Substances Storage and Handling Act; and

(vii) Accessibility standards and specifications adopted pursuant to section 81-5,147.

(2) The State Fire Marshal may enter into contracts with private individuals or other agencies, boards, commissions, or governmental bodies for the purpose of carrying out his or her duties and responsibilities pursuant to the Arson Reporting Immunity Act, the Nebraska Natural Gas Pipeline Safety Act of 1969, and sections 81-502 to 81-541.01, 81-5,132 to 81-5,146, and 81-5,151 to 81-5,157.

(3) The State Fire Marshal may delegate the authority set forth in this section to qualified local fire prevention personnel. The State Fire Marshal may overrule a decision, act, or policy of the local fire prevention personnel. When the State Fire Marshal overrules the local personnel, such local personnel may follow the appeals procedure established by sections 81-502.01 to 81-502.03. Such delegation of authority may be revoked by the State Fire Marshal for cause upon thirty days' notice after a hearing.

(4) The State Fire Marshal, first assistant fire marshal, and deputies shall have such other powers and perform such other duties as are set forth in sections 81-501.01 to 81-531 and 81-5,151 to 81-5,157 and as may be conferred and imposed by law.

(5) The rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section may conform generally to the standards recommended by the National Fire Protection Association, Pamphlet Number 101, known as the Life Safety Code, and associated pamphlets, but not when doing so would impose an unduly severe or costly burden without substantially contributing to the safety of persons or property. This section and the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall apply to existing as well as new buildings, structures, and enclosures. Such rules and regulations shall also apply to sites or structures in public ownership listed on the National Register of Historic Places but without destroying the historic quality thereof.

(6) Plans for compliance with the rules and regulations adopted and promulgated pursuant to subdivision (1)(d) of this section shall be reviewed by the State Fire Marshal. Plans submitted after remodeling or construction has begun shall be accompanied by a penalty of fifty dollars in addition to the plan review fee set out in subdivision (4)(a) of section 81-505.01.

Sec. 45. Original sections 43-2601, 43-2603 to 43-2606, 43-2608 to 43-2618, 43-2620, 43-2624, 71-1902, 71-1904, 71-1908, 71-1909, 71-1912, 71-1913.02, 71-1914, 71-1916, 71-1917, 79-3322, and 81-502, Reissue Revised Statutes of Nebraska, sections 29-2264, 43-2607, 68-1206, 71-901, 71-1901, 71-1903, 71-1907, 71-1910, 71-1911, 71-1913, 71-1913.01, 71-1913.03, and 71-1915, Revised Statutes Supplement, 1994, and section 79-444, Reissue Revised Statutes of Nebraska, as amended by section 1, Legislative Bill 214, Ninety-fourth Legislature, First Session, 1995, are repealed.

Sec. 46. The following section is outright repealed: Section 71-1918, Reissue Revised Statutes of Nebraska.