

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FOURTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 963**

Introduced by Fox, 7; Baker, 30; Campbell, 25; Crawford, 45; Howard, 9;  
Kolterman, 24.

Read first time January 14, 2016

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to the Nebraska Community Aging Services Act;
- 2 to amend sections 81-2201, 81-2213, 81-2218, 81-2220, 81-2221, and
- 3 81-2235, Reissue Revised Statutes of Nebraska; to change and
- 4 eliminate provisions relating to area plans and budgets as
- 5 prescribed; to harmonize provisions; to repeal the original
- 6 sections; and to outright repeal section 81-2228, Reissue Revised
- 7 Statutes of Nebraska.
- 8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-2201, Reissue Revised Statutes of Nebraska, is  
2 amended to read:

3 81-2201 Sections 81-2201 to 81-2227 ~~81-2228~~ shall be known and may  
4 be cited as the Nebraska Community Aging Services Act.

5 Sec. 2. Section 81-2213, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 81-2213 The department shall have the following powers and duties:

8 (1) To develop, approve, and submit to the Governor a two-year,  
9 three-year, or four-year state plan on aging, as determined by the  
10 department, for purposes of administering grant funds allocated to the  
11 state under the federal Older Americans Act of 1965, as such act existed  
12 on January 1, 2016, as now or hereafter amended, or administering state  
13 funds allocated to the Nebraska Community Aging Services Act;

14 (2) To cooperate with similar departments, commissions, or councils  
15 in the federal government and in other states;

16 (3) To adopt and promulgate rules, regulations, and bylaws governing  
17 its procedure and activities and as necessary to carry out the policies  
18 of the department and the policies prescribed by the Administration on  
19 Aging pursuant to the federal Older Americans Act of 1965, as such act  
20 existed on January 1, 2016 ~~, as now or hereafter amended;~~

21 (4) To create committees to aid in the discharge of its powers and  
22 duties;

23 (5) To cooperate with and assist other state and local governmental  
24 agencies and officials on matters relating to services for older  
25 individuals;

26 (6) To divide the state into planning-and-service areas as provided  
27 in section 71-807 for behavioral health regions, except that Regions 3  
28 and 5 may each be divided into two planning-and-service areas with  
29 boundaries as established by the department for planning-and-service  
30 areas in existence in those regions on July 1, 1982;

31 (7) To establish minimum standards for program operations and to

1 adopt and promulgate rules and regulations for the performance of area  
2 agencies on aging and for any services provided by such area agencies on  
3 aging which are funded in whole or in part under the Nebraska Community  
4 Aging Services Act or the federal Older Americans Act of 1965, as such  
5 federal act existed on January 1, 2016 ~~, as now or hereafter amended;~~

6 (8) To require the submission of a two-year, three-year, or four-  
7 year ~~one-year and a five-year~~ area plan and budget by each area agency on  
8 aging or agency seeking designation as an area agency on aging. Such  
9 plans and budgets shall be submitted sixty days prior to the start of  
10 each fiscal year in accordance with the uniform area plan format and  
11 other instructions issued by the department;

12 (9) To review and approve a two-year, three-year, or four-year ~~one-~~  
13 ~~year and a five-year~~ area plan and budget for the support of each area  
14 agency on aging and the provision of eligible activities and services as  
15 defined in section 81-2222;

16 (10) To adopt and submit electronically to the Legislature a  
17 community aging services budget;

18 (11) To review the performance of each area agency on aging and,  
19 based on the department-approved area plan and budget, to determine the  
20 continued designation or the withdrawal of the designation of an area  
21 agency on aging receiving or requesting resources through the state or  
22 under the Nebraska Community Aging Services Act or the federal Older  
23 Americans Act of 1965, as such federal act existed on January 1, 2016 ~~,~~  
24 ~~as now or hereafter amended.~~ After consultation with the director of the  
25 area agency on aging and the governing unit of the area agency on aging,  
26 the department may withdraw a designation when it can be shown that  
27 federal or state laws, rules, or regulations have not been complied with,  
28 state or federal funds are not being expended for the purposes for which  
29 they were intended, or older individuals are not receiving appropriate  
30 services within available resources. Withdrawal of a designation may be  
31 appealed to the department. Upon withdrawal of a designation, the

1 department may temporarily perform all or part of the functions and  
2 responsibilities of the area agency on aging, may designate another  
3 agency to perform such functions and responsibilities identified by the  
4 department until the designation of a new area agency on aging, and, when  
5 deemed necessary, may temporarily deliver services to assure continuity;

6 (12) To conduct continuing studies and analyses of the problems  
7 faced by older individuals within the state and develop such  
8 recommendations for administrative or legislative action as appear  
9 necessary;

10 (13) To develop grants and plans, enter into contracts, accept  
11 gifts, grants, and federal funds, and do all things necessary and proper  
12 to discharge these powers and duties;

13 (14) To accept and administer any other programs or resources  
14 delegated, designated, assigned, or awarded to the department from public  
15 or private sources; and

16 (15) Such other powers and duties necessary to effectively implement  
17 the Nebraska Community Aging Services Act.

18 Sec. 3. Section 81-2218, Reissue Revised Statutes of Nebraska, is  
19 amended to read:

20 81-2218 The governing unit of the designated area agency on aging  
21 shall:

22 (1) In accordance with section 81-2219, employ a qualified  
23 administrator to serve as the chief executive officer for the  
24 administration of the agency and employ adequate staff for carrying out  
25 the area program plan;

26 (2) Approve and submit an ~~a one-year and a five-year~~ area plan and  
27 budget to the department pursuant to section 81-2213 ~~by July 1 of each~~  
28 ~~year~~. The plan shall comply with the requirements of the Nebraska  
29 Community Aging Services Act and the federal Older Americans Act of 1965,  
30 as such federal act existed on January 1, 2016 ~~, as now or hereafter~~  
31 ~~amended~~;

1 (3) Approve such contracts and agreements as are necessary to carry  
2 out the functions of the agency; and

3 (4) Establish and consult with an area advisory council on needs,  
4 services, and policies affecting older individuals in the area. The  
5 advisory council for the area agency on aging shall establish bylaws  
6 which specify the role and functions of the council, number of members,  
7 selection of members, term of membership, and frequency of meetings.

8 Sec. 4. Section 81-2220, Reissue Revised Statutes of Nebraska, is  
9 amended to read:

10 81-2220 An area agency on aging shall:

11 (1) Monitor, evaluate, and comment on policies, programs, hearings,  
12 and community actions which affect older individuals;

13 (2) Conduct public hearings, studies, and assessments on the needs  
14 of older individuals living in the planning-and-service area;

15 (3) Represent the interests of older individuals to public officials  
16 and to public and private agencies or organizations;

17 (4) Cooperate, coordinate, and plan with other agencies,  
18 organizations, or individuals to promote benefits and opportunities for  
19 older individuals consistent with the goals of the Nebraska Community  
20 Aging Services Act and the federal Older Americans Act of 1965, as such  
21 federal act existed on January 1, 2016 , ~~as now or hereafter amended~~;

22 (5) Develop an a one-year and a five-year area plan and budget  
23 pursuant to section 81-2213 for a comprehensive, coordinated program of  
24 community aging services needed by older individuals of the area and  
25 consistent with the requirements of the Nebraska Community Aging Services  
26 Act and the federal Older Americans Act of 1965, as such federal act  
27 existed on January 1, 2016 , ~~as now or hereafter amended~~;

28 (6) Monitor and evaluate the activities of service providers to  
29 ensure that the services being provided comply with the terms of the  
30 grant or contract. When a provider is found to be in breach of the terms  
31 of its grant or contract, the area agency on aging shall enforce the

1 terms of the grant or contract;

2 (7) Comply with rules, regulations, and requirements of the  
3 department which have been developed in consultation with the area  
4 agencies on aging for client and fiscal information and provide to the  
5 department information necessary for federal and state reporting, program  
6 evaluation, program management, fiscal control, and research needs; and

7 (8) Provide technical assistance to service providers as needed,  
8 prepare written monitoring reports, and provide written reports of onsite  
9 assessments of all service providers funded by the area agency on aging  
10 according to the rules and regulations promulgated by the department.

11 Sec. 5. Section 81-2221, Reissue Revised Statutes of Nebraska, is  
12 amended to read:

13 81-2221 ~~The one-year and the five-year area plan and budget adopted~~  
14 pursuant to section 81-2220 shall contain at least the following:

15 (1) Provisions required by the Nebraska Community Aging Services Act  
16 and the federal Older Americans Act of 1965, as such federal act existed  
17 on January 1, 2016 ~~, as now or hereafter amended~~; and

18 (2) A detailed statement of the manner in which the area agency on  
19 aging develops, administers, and supports the comprehensive, coordinated  
20 program of community aging services throughout the area.

21 The department may require minimum service levels for the area and  
22 establish minimum standards for activities which carry out the  
23 requirements of the Nebraska Community Aging Services Act and the federal  
24 Older Americans Act of 1965, as such federal act existed on January 1,  
25 2016 ~~, as now or hereafter amended~~.

26 Sec. 6. Section 81-2235, Reissue Revised Statutes of Nebraska, is  
27 amended to read:

28 81-2235 (1) Each care management unit may be reimbursed by the  
29 Department of Health and Human Services for costs not paid for by the  
30 individual or through other reimbursement specified in section 81-2234.  
31 Reimbursement by the department shall be based on actual casework time

1 units expended on all care management services provided and shall include  
2 expenses for personnel, administration and planning, client eligibility  
3 review, contractual services, and necessary support services and other  
4 necessary actual and indirect costs. Standardized rates of reimbursement  
5 shall be adopted and promulgated by the department and shall be adjusted  
6 at least every three years.

7 (2) Appropriations for reimbursement by the department for services  
8 provided under sections 81-2229 to 81-2235 and for the costs of the  
9 department to administer the program shall be appropriated separately  
10 from funds appropriated under the Nebraska Community Aging Services Act.

11 ~~(3) Funds appropriated under this section shall not be used to~~  
12 ~~replace funds appropriated under the Nebraska Community Aging Services~~  
13 ~~Act and granted to the area agencies on aging prior to August 30, 1987,~~  
14 ~~and used to provide case management or care management services in their~~  
15 ~~planning and service area, except that such funds may be replaced by non-~~  
16 ~~Nebraska Community Aging Services funds that are obtained subsequent to~~  
17 ~~August 30, 1987, as allowed under rules and regulations adopted and~~  
18 ~~promulgated by the Department of Health and Human Services.~~

19 Sec. 7. Original sections 81-2201, 81-2213, 81-2218, 81-2220,  
20 81-2221, and 81-2235, Reissue Revised Statutes of Nebraska, are repealed.

21 Sec. 8. The following section is outright repealed: Section  
22 81-2228, Reissue Revised Statutes of Nebraska.