

LEGISLATURE OF NEBRASKA  
NINETY-SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 788**

Introduced by Thompson, 14; Bromm, 23; Coordsen, 32; Hartnett, 45;  
Jones, 43; Kremer, 34; Maxwell, 9; Price, 26;  
Quandahl, 31; Raikes, 25; Redfield, 12; Robak, 22;  
Smith, 48; Tyson, 19; Wickersham, 49

Read first time January 17, 2001

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to blind or visually impaired persons; to amend  
2 sections 63-106, 71-8601 to 71-8603, 71-8605 to 71-8616,  
3 and 73-205, Revised Statutes Supplement, 2000; to adopt  
4 the Blind and Visually Impaired Services Act; to  
5 eliminate the Commission for the Blind and Visually  
6 Impaired; to transfer powers and duties to the Department  
7 of Health and Human Services; to harmonize provisions; to  
8 provide an operative date; to repeal the original  
9 sections; to outright repeal section 71-8604, Revised  
10 Statutes Supplement, 2000; and to declare an emergency.  
11 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 63-106, Revised Statutes Supplement,  
2 2000, is amended to read:

3           63-106. (1) The ~~Commission for the Blind and Visually~~  
4 ~~Impaired~~ Department of Health and Human Services shall establish  
5 standards and procedures for a statewide digital voice newspaper  
6 delivery system and shall oversee its operation. The ~~commission~~  
7 department shall:

8           (a) Enter into contracts for the operation of such  
9 system;

10           (b) Provide space for the location of distribution  
11 devices and other equipment necessary to operate the system;

12           (c) Provide for daily monitoring to assure prompt and  
13 accurate functioning;

14           (d) Advertise the system and recruit blind and other  
15 print-reading-impaired persons for user certification;

16           (e) Develop and implement procedures for user  
17 certification;

18           (f) Serve as a coordinator between the system operator  
19 and the certified users; and

20           (g) Adopt and promulgate rules and regulations to carry  
21 out this section and section 63-105.

22           (2) Any certified user of the system shall not be charged  
23 for access to the system other than instate and out-of-state  
24 long-distance charges incurred while accessing the system.

25           Sec. 2. Section 71-8601, Revised Statutes Supplement,  
26 2000, is amended to read:

27           71-8601. Sections 71-8601 to 71-8616 shall be known and  
28 may be cited as the ~~Commission for the~~ Blind and Visually Impaired

1 Services Act.

2           Sec. 3.     Section 71-8602, Revised Statutes Supplement,  
3 2000, is amended to read:

4           71-8602. The purposes of the ~~Commission for the~~ Blind  
5 and Visually Impaired Services Act are to assist blind persons in  
6 gaining remunerative employment, to enlarge economic opportunities  
7 for blind persons, to increase the available occupational range and  
8 diversity for blind persons, and to stimulate other efforts that  
9 aid blind persons in becoming self-supporting.

10          Sec. 4.     Section 71-8603, Revised Statutes Supplement,  
11 2000, is amended to read:

12          71-8603.    For purposes of the ~~Commission for the~~ Blind  
13 and Visually Impaired Services Act:

14                 (1) Blind person means:

15                         (a) A person having sight which is so defective as to  
16 seriously limit his or her ability to engage in the ordinary  
17 vocations and activities of life; or

18                         (b) A person, to be eligible and licensed as a blind  
19 vending facility operator under section 71-8611:

20                                 (i) Having no greater than 20/200 central visual acuity  
21 in the better eye after correction; or

22                                 (ii) Having an equally disabling loss of the visual field  
23 in which the widest diameter of the visual field subtends an angle  
24 no greater than twenty degrees;

25                         (2) ~~Board means the governing board of the commission;~~

26                         ~~(3) Commission means the Commission for the Blind and~~  
27 ~~Visually Impaired;~~

28                         ~~(4) Committee of Blind Vendors means the committee~~

1 created pursuant to 20 U.S.C. 107b-1;

2 (3) Department means the Department of Health and Human  
3 Services;

4 ~~(5)~~ (4) State workforce investment board means the board  
5 authorized by the federal Workforce Investment Partnership Act of  
6 1998 and established in Nebraska;

7 ~~(6)~~ (5) Vending facility means:

8 (a) Shelters, counters, shelving, display and wall cases,  
9 refrigerating apparatus, and other appropriate auxiliary equipment  
10 necessary for the vending of articles approved by the office,  
11 agency, or person having control of the property on which the  
12 vending facility is located; and

13 (b) Manual or coin-operated vending machines or similar  
14 devices for vending articles approved by the office, agency, or  
15 person having control of the property on which the vending facility  
16 is located; and

17 ~~(7)~~ (6) Vending facility program means the program  
18 established and maintained pursuant to section 71-8611.

19 Sec. 5. Section 71-8605, Revised Statutes Supplement,  
20 2000, is amended to read:

21 71-8605. ~~(1) The commission shall employ a director who~~  
22 ~~is the administrative officer of the commission. The director~~  
23 ~~shall hire employees as necessary for the efficient operation of~~  
24 ~~the commission. The director shall serve at the pleasure of the~~  
25 ~~commission.~~

26 ~~(2) The department may (1) commission shall have power in~~  
27 ~~each instance (a) to establish standards of qualification for~~  
28 ~~personnel employed pursuant to the Commission for the Blind and~~

1 Visually Impaired Services Act and ~~(b) to~~ (2) employ necessary  
2 field agents, teachers, and other personnel in accordance with such  
3 standards and fix their compensation. ~~All employees of the~~  
4 ~~commission, except the director, shall be included within the State~~  
5 ~~Personnel System.~~

6 Sec. 6. Section 71-8606, Revised Statutes Supplement,  
7 2000, is amended to read:

8 71-8606. (1) The rehabilitation council to the  
9 ~~commission~~ department is created to aid in providing services for  
10 blind persons. The council shall consist of not to exceed fifteen  
11 members who shall be appointed by the Governor. Five members shall  
12 be appointed for terms of one year, five members for terms of two  
13 years, and the remaining members for terms of three years with the  
14 Governor designating the expiration of the term of office of each  
15 member of the council when first appointed. Thereafter their  
16 successors shall serve for terms of three years. In appointing  
17 members to the council, the Governor shall give due consideration  
18 to the geographical distribution of blind persons within the state  
19 with a view to apportioning membership on the council in accordance  
20 with such distribution. After July 1, 2000, the Governor shall  
21 appoint representatives of the following as terms expire or  
22 vacancies occur: (a) At least two representatives of blindness  
23 advocacy groups representing blind persons, to accord fair  
24 representation to the several organizations of the blind; (b) at  
25 least one representative who is a current or former applicant or  
26 recipient of vocational rehabilitation services; (c) a  
27 representative from the Client Assistance Program; (d) a qualified  
28 vocational rehabilitation counselor with knowledge of and

1 experience with vocational rehabilitation programs, who shall be a  
2 nonvoting member if employed by the ~~commission~~ department; (e) a  
3 representative of a community rehabilitation program service  
4 provider; (f) four representatives of business, industry, and  
5 labor; (g) a representative of a parent training and information  
6 center; (h) at least one representative of individuals with  
7 multiple disabilities, including blindness, who have difficulty in  
8 representing themselves or are unable to represent themselves due  
9 to their disabilities; and (i) a representative of the statewide  
10 Independent Living Council. A majority of the members of the  
11 council shall be blind persons who are not employed by the  
12 ~~commission~~ department. In case of vacancy in the office of any  
13 member, his or her successor shall be appointed for the unexpired  
14 term.

15 (2) Members of the council who are not state employees  
16 shall receive thirty dollars per day for each day engaged in the  
17 duties of the council. Members of the council shall be reimbursed  
18 for their actual and necessary expenses incurred in the performance  
19 of their official duties as provided in sections 81-1174 to  
20 81-1177.

21 (3) The council shall hold four meetings a year at such  
22 times and places as determined by the council. A chairperson and  
23 such other officers as may be necessary shall be elected by the  
24 council by majority vote for terms of office as determined by the  
25 council.

26 (4) ~~The director of the commission employed pursuant to~~  
27 ~~section 71-8605~~ An employee of the department as designated by the  
28 Director of Health and Human Services shall serve as an ex officio

1 member of the council in a nonvoting capacity. ~~The director~~ Such  
2 ex officio member shall furnish any data required by the council in  
3 carrying out its functions subject to the limitations prescribed by  
4 law relating to the confidentiality of information with respect to  
5 individual clients.

6 (5) The council shall, after consulting with the state  
7 workforce investment board:

8 (a) Review and analyze the rehabilitation services  
9 provided by the ~~commission~~ department and provide advice to the  
10 director, ~~of the commission,~~ particularly with respect to  
11 eligibility for and the extent, scope, and effectiveness of  
12 services and the impact of other agencies on the success of  
13 clients;

14 (b) In partnership with the ~~commission~~ department and ~~its~~  
15 the director, develop, agree to, and review state goals and  
16 priorities on the preparation of applications, the state plan, the  
17 strategic plan, reports, needs assessments, and evaluations  
18 required by federal law;

19 (c) Review and analyze the effectiveness of and consumer  
20 satisfaction with other public and private agencies providing  
21 services to blind persons, including achieved employment outcomes  
22 and the provision of health and related benefits;

23 (d) Prepare and submit an annual report to the director,  
24 ~~of the commission,~~ the Governor, and the Commissioner of  
25 Rehabilitation Services on the status of vocational rehabilitation  
26 services operated by the ~~commission~~ department. This report shall  
27 also be made available to the public;

28 (e) Coordinate with other councils in the state that

1 serve disabled persons;

2 (f) Advise the ~~commission~~ department and provide for  
3 coordination and the establishment of working relations with the  
4 statewide Independent Living Council and centers for independent  
5 living; and

6 (g) Perform other duties that the council determines to  
7 be appropriate.

8 Sec. 7. Section 71-8607, Revised Statutes Supplement,  
9 2000, is amended to read:

10 71-8607. (1) The ~~commission~~ department shall:

11 (a) Apply for, receive, and administer money from any  
12 state or federal agency to be used for purposes relating to  
13 blindness, including federal funds relating to vocational  
14 rehabilitation of blind persons as provided in subsection (1) of  
15 section 71-8610;

16 (b) Receive on behalf of the state any gifts, donations,  
17 or bequests from any source to be used in carrying out the purposes  
18 of the ~~Commission for the~~ Blind and Visually Impaired Services Act;

19 (c) Promote self-support of blind persons as provided in  
20 sections 71-8608, 71-8609, and 71-8611;

21 (d) Provide itinerant training of alternative skills of  
22 blindness, including, but not limited to, braille, the long white  
23 cane for independent travel, adaptive technology, and lifestyle  
24 maintenance;

25 (e) Establish, equip, and maintain a residential training  
26 center with qualified instructors for comprehensive prevocational  
27 training of eligible blind persons. The center shall also provide  
28 comprehensive independent living training as well as orientation

1 and adjustment counseling for blind persons;

2 (f) Administer and operate a vending facility program in  
3 the state, in its capacity as the designated licensing agency  
4 pursuant to the federal Randolph-Sheppard Act, as amended, 20  
5 U.S.C. 107 et seq., for the benefit of blind persons;

6 (g) Contract for the purchase of information services for  
7 blind persons; and

8 (h) Perform other duties necessary to fulfill the  
9 purposes of the ~~Commission for the~~ Blind and Visually Impaired  
10 Services Act.

11 (2) The ~~commission~~ department may perform educational  
12 services relating to blindness and may cooperate and consult with  
13 other public and private agencies relating to educational issues.

14 Sec. 8. Section 71-8608, Revised Statutes Supplement,  
15 2000, is amended to read:

16 71-8608. To promote self-support of blind persons:

17 (1) The ~~commission~~ department shall:

18 (a) Provide placement and career development services;

19 (b) Provide prevocational training;

20 (c) Support integration with and access to  
21 community-based educational and vocational training opportunities;

22 (d) Implement employer outreach and cultivation; and

23 (e) Develop inservice community-based recruitment and  
24 networking resources; and

25 (2) The ~~commission~~ department may:

26 (a) Maintain employment data bases;

27 (b) Facilitate small business incubation; and

28 (c) Develop recommendations for state contract

1 preferences.

2           Sec. 9.     Section 71-8609, Revised Statutes Supplement,  
3 2000, is amended to read:

4           71-8609.     (1) For a person to qualify for  
5 blindness-related services from the ~~commission~~ department, the  
6 ~~commission department~~ shall find such person to be (a) a blind  
7 person as defined in subdivision (1)(a) of section 71-8603 or (b) a  
8 person who is experiencing a deteriorating condition which is  
9 expected to result in blindness. A person seeking to qualify for  
10 blindness-related services may obtain an eye examination from a  
11 licensed ophthalmologist or optometrist of his or her choice or  
12 provide other certifying evidence of existing or potential visual  
13 impairment as required by the rules and regulations of the  
14 ~~commission~~ department.

15           (2) The ~~commission~~ department shall maintain a list of  
16 all ophthalmologists and optometrists currently licensed in  
17 Nebraska and establish procedures for a person to obtain evidence  
18 to verify that he or she qualifies for blindness-related services.

19           (3) When an eye examination is required for a person  
20 seeking to qualify for blindness-related services, the ~~commission~~  
21 department shall pay the cost pursuant to its rules and  
22 regulations. The ~~commission~~ department may assist any person  
23 seeking to qualify for blindness-related services under the  
24 ~~Commission for the~~ Blind and Visually Impaired Services Act in  
25 arranging an eye examination or obtaining other evidence pursuant  
26 to this section.

27           Sec. 10.    Section 71-8610, Revised Statutes Supplement,  
28 2000, is amended to read:

1           71-8610. (1) The ~~commission~~ department is authorized to  
2 accept the provisions of the federal Rehabilitation Act of 1973, as  
3 amended, 29 U.S.C. 701 et seq., and to cooperate with the United  
4 States Government in any way necessary to enable the ~~commission~~  
5 department to receive federal funds for the vocational  
6 rehabilitation of blind persons as provided in such act and the  
7 provisions of Titles II and XVI of the federal Social Security Act,  
8 as amended, 42 U.S.C. 301 et seq.

9           (2) The ~~commission~~ department shall provide vocational  
10 rehabilitation services for blind persons, including, but not  
11 limited to, prevocational training, maintenance during training,  
12 transportation, occupational tools and equipment, vocational  
13 training, medical and surgical care and hospitalization, and  
14 prosthetic appliances.

15           Sec. 11. Section 71-8611, Revised Statutes Supplement,  
16 2000, is amended to read:

17           71-8611. For the purpose of providing blind persons with  
18 remunerative employment, enlarging the economic opportunities of  
19 blind persons, and stimulating blind persons to greater efforts in  
20 striving to make themselves self-supporting, the ~~commission~~  
21 department shall administer and operate vending facilities programs  
22 pursuant to the federal Randolph-Sheppard Act, as amended, 20  
23 U.S.C. 107 et seq. Blind persons licensed by the ~~commission~~  
24 department pursuant to its rules and regulations are authorized to  
25 operate vending facilities in any federally owned building or on  
26 any federally owned or controlled property, in any state-owned  
27 building or on any state-owned or controlled property, or on any  
28 county, city, or municipally owned or controlled property with the

1 approval of the local governing body, when, in the judgment of the  
2 ~~director of the commission~~ Director of Health and Human Services,  
3 such vending facilities may be properly and satisfactorily operated  
4 by blind persons.

5           Sec. 12. Section 71-8612, Revised Statutes Supplement,  
6 2000, is amended to read:

7           71-8612.     The ~~Commission for the~~ Blind and Visually  
8 Impaired Services Cash Fund is created. On July 1, ~~2000~~ 2001, any  
9 money in the ~~Small Business Enterprises Cash Fund and any portion~~  
10 ~~of the Department of Health and Human Services Cash Fund or any~~  
11 ~~other cash funds attributable to the Division of Rehabilitation~~  
12 ~~Services for the Visually Impaired within the Department of Health~~  
13 ~~and Human Services~~ Commission for the Blind and Visually Impaired  
14 Cash Fund shall be transferred to the ~~Commission for the~~ Blind and  
15 Visually Impaired Services Cash Fund. Any custodial funds, gifts,  
16 trusts, and federal grants attributable to the ~~Division of~~  
17 ~~Rehabilitation Services for the Visually Impaired within the~~  
18 ~~Department of Health and Human Services~~ Commission for the Blind  
19 and Visually Impaired Cash Fund shall be transferred and  
20 attributable to the ~~commission~~ department. The fund shall contain  
21 money received pursuant to the ~~Commission for the~~ Blind and  
22 Visually Impaired Services Act and shall include a percentage of  
23 the net proceeds derived from the operation of vending facilities  
24 which do not employ more than three full-time people or the  
25 equivalent thereof if part-time employees are utilized. The net  
26 proceeds from the operation of vending facilities shall accrue to  
27 the blind vending facility operator, except for the percentage of  
28 the net proceeds that shall revert to the cash fund.     Such fund

1 shall be used for supervision and other administrative purposes as  
2 necessary. The ~~commission~~ department, in consultation with the  
3 Committee of Blind Vendors, shall determine the percentage of the  
4 net proceeds that reverts to the fund after an investigation to  
5 reveal the gross proceeds, cost of operation, amount necessary to  
6 replenish the stock of merchandise, and the business needs of the  
7 blind vending facility operator. All equipment purchased from the  
8 fund is the property of the state and shall be disposed of only by  
9 sale at a fair market price. Any money in the fund available for  
10 investment shall be invested by the state investment officer  
11 pursuant to the Nebraska Capital Expansion Act and the Nebraska  
12 State Funds Investment Act.

13 Sec. 13. Section 71-8613, Revised Statutes Supplement,  
14 2000, is amended to read:

15 71-8613. The ~~commission~~ department shall file an annual  
16 report with the Governor and the Clerk of the Legislature, prior to  
17 each regular session of the Legislature, which details the  
18 activities and expenditures of the ~~commission~~ department and shall  
19 include separately information related to the activities and  
20 expenditures of the vending facility program as well as estimates  
21 of anticipated expenditures and anticipated revenue available to  
22 the vending facility program from all sources.

23 Sec. 14. Section 71-8614, Revised Statutes Supplement,  
24 2000, is amended to read:

25 71-8614. The ~~commission~~ department shall provide an  
26 opportunity for a fair hearing to any person applying for or  
27 receiving services who is dissatisfied with any action or failure  
28 to act arising from the operation or administration of any service

1 or program authorized under the ~~Commission for the~~ Blind and  
2 Visually Impaired Services Act.

3 Sec. 15. Section 71-8615, Revised Statutes Supplement,  
4 2000, is amended to read:

5 71-8615. The ~~commission~~ department shall adopt and  
6 promulgate rules and regulations as necessary to implement the  
7 purposes of the ~~Commission for the~~ Blind and Visually Impaired  
8 Services Act. Any rules and regulations in effect for the  
9 Commission for the Blind and Visually Impaired Act shall continue  
10 in force and effect until amended or repealed by the department  
11 under the Blind and Visually Impaired Services Act.

12 Sec. 16. Section 71-8616, Revised Statutes Supplement,  
13 2000, is amended to read:

14 71-8616. (1) All property, equipment, supplies, and  
15 personnel which belonged to, were allocated to, or were used to  
16 support the ~~Division of Rehabilitation Services for the Visually~~  
17 ~~Impaired within the Department of Health and Human Services~~  
18 Commission for the Blind and Visually Impaired prior to July 1,  
19 ~~2000~~ 2001, are transferred to the ~~Commission for the Blind and~~  
20 ~~Visually Impaired~~ department.

21 (2) All existing contracts and agreements in effect on  
22 July 1, ~~2000~~ 2001, as to the ~~Division of Rehabilitation Services~~  
23 ~~for the Visually Impaired within the Department of Health and Human~~  
24 ~~Services~~ Commission for the Blind and Visually Impaired are binding  
25 and effective upon the ~~Commission for the Blind and Visually~~  
26 ~~Impaired~~ department.

27 Sec. 17. Section 73-205, Revised Statutes Supplement,  
28 2000, is amended to read:

1                   73-205.   (1) The ~~Commission for the Blind and Visually~~  
2 ~~Impaired~~ Department of Health and Human Services, the Nebraska  
3 Information Technology Commission, and the Chief Information  
4 Officer, in consultation with other state agencies and after at  
5 least one public hearing, shall develop a technology access clause  
6 to be included in all contracts entered into by state agencies on  
7 and after January 1, 2001.

8                   (2) The technology access clause shall clearly state, as  
9 a condition for the expenditure of state funds in the purchase of  
10 information technology, that the input and output technology shall  
11 be capable of supporting modification and otherwise provide for  
12 equivalent access for both visual and nonvisual use.

13                   (3) The technology access clause shall be included in all  
14 contracts made by state agencies that involve the purchase of an  
15 automated information system, without regard to:

16                   (a) The source of funds used to make the purchase;

17                   (b) Whether the purchase is made under delegated  
18 purchasing authority; or

19                   (c) The source of law under which the purchase is made.

20                   Sec. 18. This act becomes operative on July 1, 2001.

21                   Sec. 19. Original sections 63-106, 71-8601 to 71-8603,  
22 71-8605 to 71-8616, and 73-205, Revised Statutes Supplement, 2000,  
23 are repealed.

24                   Sec. 20. The following section is outright repealed:  
25 Section 71-8604, Revised Statutes Supplement, 2000.

26                   Sec. 21. Since an emergency exists, this act takes  
27 effect when passed and approved according to law.