

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1083

Introduced by Jensen, 20
Read first time January 14, 2004
Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to behavioral health services; to amend
2 sections 42-917, 44-773, 44-774, 81-2213, 83-305, 83-321,
3 83-336, 83-338, 83-340, 83-340.01, 83-350, 83-4,148,
4 83-1006, 83-1007, and 83-1040, Reissue Revised Statutes
5 of Nebraska, section 83-162.04, Revised Statutes
6 Supplement, 2002, and sections 9-812, 28-416, and
7 83-1079, Revised Statutes Supplement, 2003; to adopt the
8 Nebraska Behavioral Health Services Act; to change and
9 eliminate provisions relating to state hospitals; to
10 eliminate the Nebraska Comprehensive Community Mental
11 Health Services Act, the Rehabilitation and Support
12 Mental Health Services Incentive Act, the Alcoholism,
13 Drug Abuse, and Addiction Services Act, the Nebraska
14 Behavioral Health Reform Act, and provisions relating to
15 behavioral health; to harmonize provisions; to provide
16 operative dates; to repeal the original sections; to
17 outright repeal sections 71-5001 to 71-5010, 71-5012 to

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1 71-5053, 71-5055 to 71-5066, 83-158.01, 83-159, 83-160,
2 83-161.02, 83-162.01 to 83-162.03, 83-163 to 83-169,
3 83-305.05, 83-306, 83-307, 83-307.01, 83-308, 83-311,
4 83-339, 83-352.02, and 83-356, Reissue Revised Statutes
5 of Nebraska; and to declare an emergency.

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

1 Section 1. Sections 1 to 18 of this act shall be known
2 and may be cited as the Nebraska Behavioral Health Services Act.

3 Sec. 2. The purposes of the Nebraska Behavioral Health
4 Services Act are to: (1) Reorganize statutes relating to the
5 provision of publicly funded behavioral health services; (2)
6 provide for the organization and administration of the public
7 behavioral health system within the department; (3) rename mental
8 health regions as behavioral health regions; (4) provide for the
9 establishment of regional behavioral health authorities and ongoing
10 activities of regional governing boards; (5) reorganize the State
11 Mental Health Planning and Evaluation Council, the State Alcoholism
12 and Drug Abuse Advisory Committee, and the Nebraska Advisory
13 Commission on Compulsive Gambling into a single State Behavioral
14 Health Council; (6) change and add provisions relating to
15 development of community-based behavioral health services and
16 funding for behavioral health services; and (7) provide for the
17 closure of two regional centers.

18 Sec. 3. The purposes of the public behavioral health
19 system are to ensure:

20 (1) The public safety and the health and safety of
21 persons with behavioral health disorders;

22 (2) Statewide access to behavioral health services,
23 including, but not limited to, (a) adequate availability of
24 behavioral health professionals, programs, and facilities, (b) an
25 appropriate array of community-based services and continuum of
26 care, and (c) integration and coordination of behavioral health
27 services with primary health care services;

28 (3) High quality behavioral health services, including,

1 but not limited to, (a) services that are research-based and
2 consumer-focused, (b) services that emphasize beneficial treatment
3 outcomes and recovery, with appropriate treatment planning, case
4 management, community support, and consumer peer support, (c)
5 appropriate regulation of behavioral health professionals,
6 programs, and facilities, and (d) consumer involvement as a
7 priority in all aspects of service planning and delivery; and

8 (4) Cost-effective behavioral health services, including,
9 but not limited to, (a) services that are efficiently managed and
10 supported with appropriate planning and information, (b) services
11 that emphasize prevention, early detection, and early intervention,
12 (c) services that are provided in the least restrictive environment
13 consistent with the consumer's clinical diagnosis and plan of
14 treatment, and (d) funding that is fully integrated and allocated
15 to support the consumer and his or her plan of treatment.

16 Sec. 4. For purposes of the Nebraska Behavioral Health
17 Services Act:

18 (1) Administrator means the administrator of the
19 division;

20 (2) Behavioral health disorder means mental illness or
21 alcoholism, drug abuse, or other addictive disorder;

22 (3) Behavioral health region means a behavioral health
23 region established in section 7 of this act;

24 (4) Behavioral health services means services provided
25 for the prevention, diagnosis, early intervention, and treatment of
26 behavioral health disorders and the recovery of persons with such
27 disorders;

28 (5) Community-based behavioral health services or

1 community-based services means residential housing and inpatient or
2 outpatient behavioral health services that are not provided at a
3 regional center;

4 (6) Department means the Department of Health and Human
5 Services;

6 (7) Director means the Director of Health and Human
7 Services;

8 (8) Division means the Division of Behavioral Health
9 Services of the department;

10 (9) Nebraska Health and Human Services System means the
11 Department of Health and Human Services, the Department of Health
12 and Human Services Regulation and Licensure, and the Department of
13 Health and Human Services Finance and Support;

14 (10) Policy Cabinet means the Policy Cabinet of the
15 Nebraska Health and Human Services System established in section
16 81-3009;

17 (11) Public behavioral health system means the statewide
18 array of behavioral health services for children and adults
19 provided by the public sector or private sector and supported in
20 whole or in part with funding received and administered by the
21 Nebraska Health and Human Services System, including behavioral
22 health services provided under the medical assistance program
23 established in section 68-1018;

24 (12) Regional center means one of the state hospitals for
25 the mentally ill designated in section 83-305; and

26 (13) Regional center behavioral health services or
27 regional center services means behavioral health services provided
28 at a regional center.

1 Sec. 5. (1) The director shall establish and maintain a
2 Division of Behavioral Health Services within the department. The
3 division shall establish and maintain a separate budget and shall
4 separately account for all revenue and expenditures.

5 (2) The administrator of the division shall be appointed
6 by the Governor and confirmed by a majority of the members of the
7 Legislature. The administrator shall report to the director and
8 shall be responsible for the administration and management of the
9 division. The director shall appoint a chief clinical officer and
10 a program administrator for consumer affairs for the division. The
11 chief clinical officer shall be a board-certified psychiatrist and
12 shall serve as the medical director for the division and all
13 facilities and programs operated by the division. The program
14 administrator for consumer affairs shall be a consumer or former
15 consumer of behavioral health services and shall have specialized
16 knowledge, experience, or expertise relating to consumer-directed
17 behavioral health services, behavioral health delivery systems, and
18 advocacy on behalf of consumers of behavioral health services and
19 their families. The chief clinical officer and the program
20 administrator for consumer affairs shall report to the
21 administrator of the division. The Governor and the director shall
22 conduct a search for qualified candidates and shall solicit and
23 consider recommendations from interested parties for such positions
24 prior to making such appointments.

25 (3) The administrator of the division shall establish and
26 maintain an office of consumer affairs within the division. The
27 program administrator for consumer affairs shall be responsible for
28 the administration and management of the office.

1 Sec. 6. (1) The division shall act as the chief
2 behavioral health authority for the State of Nebraska and shall
3 direct the administration and coordination of the public behavioral
4 health system, including, but not limited to: (a) Administration
5 and management of the division, regional centers, and any other
6 facilities and programs operated by the division; (b) integration
7 and coordination of the public behavioral health system; (c)
8 comprehensive statewide planning for the provision of an
9 appropriate array of community-based behavioral health services and
10 continuum of care; (d) coordination and oversight of regional
11 behavioral health authorities, including approval of regional
12 budgets and audits of regional behavioral health authorities; (e)
13 development and management of data and information systems; (f)
14 prioritization and approval of all expenditures of funds received
15 and administered by the division, including the establishment of
16 rates to be paid and reimbursement methodologies for behavioral
17 health services and fees to be paid by consumers of such services;
18 (g) coordination with the Department of Health and Human Services
19 Regulation and Licensure in the licensure and regulation of
20 behavioral health professionals, programs, and facilities; (h)
21 audits of behavioral health programs and services; and (i)
22 promotion of activities in research and education to improve the
23 quality of behavioral health services, recruitment and retention of
24 behavioral health professionals, and access to behavioral health
25 programs and services.

26 (2) The department shall adopt and promulgate rules and
27 regulations to carry out the Nebraska Behavioral Health Services
28 Act.

1 Sec. 7. Six behavioral health regions are established,
2 consisting of the following counties:

3 (1) Region 1 shall consist of Sioux, Dawes, Box Butte,
4 Sheridan, Scotts Bluff, Morrill, Garden, Banner, Kimball, Cheyenne,
5 and Deuel counties;

6 (2) Region 2 shall consist of Grant, Hooker, Thomas,
7 Arthur, McPherson, Logan, Keith, Lincoln, Perkins, Chase, Hayes,
8 Frontier, Dawson, Gosper, Dundy, Hitchcock, and Red Willow
9 counties;

10 (3) Region 3 shall consist of Blaine, Loup, Garfield,
11 Wheeler, Custer, Valley, Greeley, Sherman, Howard, Buffalo, Hall,
12 Phelps, Kearney, Adams, Clay, Furnas, Harlan, Hamilton, Merrick,
13 Franklin, Webster, and Nuckolls counties;

14 (4) Region 4 shall consist of Cherry, Keya Paha, Boyd,
15 Brown, Rock, Holt, Knox, Cedar, Dixon, Dakota, Thurston, Wayne,
16 Pierce, Antelope, Boone, Nance, Madison, Stanton, Cuming, Burt,
17 Colfax, and Platte counties;

18 (5) Region 5 shall consist of Polk, Butler, Saunders,
19 Seward, Lancaster, Otoe, Fillmore, Saline, Thayer, Jefferson, Gage,
20 Johnson, Nemaha, Pawnee, York, and Richardson counties; and

21 (6) Region 6 shall consist of Dodge, Washington, Douglas,
22 Sarpy, and Cass counties.

23 Sec. 8. (1) A regional behavioral health authority shall
24 be established in each behavioral health region by counties acting
25 under provisions of the Interlocal Cooperation Act. Each regional
26 behavioral health authority shall be governed by a regional
27 governing board consisting of one county board member from each
28 county in the region. Board members shall serve for staggered

1 terms of three years and until their successors are appointed and
2 qualified. Board members shall serve without compensation but
3 shall be reimbursed for their actual and necessary expenses as
4 provided in sections 81-1174 to 81-1177.

5 (2) The regional governing board shall appoint a regional
6 administrator who shall be responsible for the administration and
7 management of the regional behavioral health authority. Each
8 regional behavioral health authority shall encourage and facilitate
9 the involvement of consumers in all aspects of service planning and
10 delivery within the region and shall coordinate such activities
11 with the office of consumer affairs within the division. Each
12 regional behavioral health authority may establish and utilize such
13 task forces, subcommittees, or other committees as it deems
14 necessary and appropriate to carry out its duties under this
15 section.

16 (3) Each county in a behavioral health region shall
17 provide funding for the operation of the behavioral health
18 authority in the region in an amount to be determined by the
19 regional governing board of such authority in consultation with all
20 counties in the region. Each regional behavioral health authority
21 shall provide funding for the provision of behavioral health
22 services in the region in an amount equal to one dollar for every
23 three dollars from the General Fund. The division shall annually
24 certify the amount of matching funds to be provided. At least
25 forty percent of such amount shall consist of local and county tax
26 revenue, and the remainder shall consist of other nonfederal
27 sources. Any General Funds transferred from regional centers for
28 the provision of community-based behavioral health services after

1 the operative date of this section shall be excluded from the
2 formula under this section.

3 Sec. 9. (1) Each regional behavioral health authority
4 shall be responsible to the division for the administration and
5 coordination of the public behavioral health system within the
6 behavioral health region pursuant to rules and regulations adopted
7 and promulgated by the department, including, but not limited to,
8 (a) administration and management of the regional behavioral health
9 authority, (b) integration and coordination of the public
10 behavioral health system within the behavioral health region, (c)
11 comprehensive planning for the provision of an appropriate array of
12 community-based behavioral health services and continuum of care
13 for the region, (d) submission for approval by the division of an
14 annual budget and a proposed plan for the funding and
15 administration of behavioral health services within the region, (e)
16 submission of annual reports and other reports as required by the
17 division, (f) initiation and oversight of contracts for the
18 provision of behavioral health services, and (g) coordination with
19 the division in conducting audits of behavioral health programs and
20 services.

21 (2) Except for services being provided by a regional
22 behavioral health authority on the operative date of this section
23 under applicable state law in existence prior to such date and
24 except as otherwise provided in this subsection, no regional
25 behavioral health authority shall provide behavioral health
26 services funded in whole or in part with funds received and
27 administered by the division under the Nebraska Behavioral Health
28 Services Act unless:

1 (a) There has been a public competitive bidding process
2 for such services;

3 (b) There are no qualified and willing providers to
4 provide such services;

5 (c) The regional behavioral health authority receives
6 written authorization from the administrator and enters into a
7 contract with the division to provide such services; and

8 (d) The regional behavioral health authority complies
9 with all applicable rules and regulations of the department
10 relating to the provision of such services by such authority,
11 including, but not limited to, rules and regulations which (i)
12 establish definitions of conflicts of interest for regional
13 behavioral health authorities and procedures in the event such
14 conflicts arise and (ii) require each regional behavioral health
15 authority to establish and maintain a separate budget and
16 administration and separately account for all revenue and
17 expenditures relating to the provision of such services.

18 No later than June 30, 2006, each regional behavioral
19 health authority shall comply with this subsection with respect to
20 services being provided by such authority on the operative date of
21 this section under applicable state law in existence prior to such
22 date.

23 Sec. 10. (1) The division shall encourage and facilitate
24 the statewide development and provision of an appropriate array of
25 community-based behavioral health services and continuum of care
26 for the purpose of reducing the necessity and demand for regional
27 center behavioral health services.

28 (2) The division shall not reduce or discontinue any

1 regional center behavioral health services or cease the operation
2 of any regional center unless (a) appropriate community-based
3 behavioral health services or other regional center services are
4 available for every person receiving regional center services that
5 would be affected by such reduction, discontinuation, or closure
6 and (b) no further commitments, admissions, or readmissions for
7 such services are required due to the availability of
8 community-based behavioral health services or other regional center
9 services to replace such services. The division shall inform the
10 Governor and the Legislature of any intended reduction,
11 discontinuation, or closure under this section and shall provide
12 detailed documentation of the community-based behavioral health
13 services or other regional center services that are being utilized
14 to replace services that would be affected by the intended
15 reduction, discontinuation, or closure.

16 (3) All funding related to the provision of regional
17 center services that are reduced or discontinued under this section
18 shall be reallocated and expended by the division for purposes
19 related to the statewide development and provision of
20 community-based behavioral health services.

21 (4) The division may establish state-operated
22 community-based behavioral health services to replace regional
23 center services that are reduced or discontinued under this
24 section. The division shall provide regional center employees with
25 appropriate training and support to transition such employees into
26 positions as may be necessary for the provision of such
27 state-operated services.

28 (5) The division shall cease operation of the Norfolk

1 Regional Center on or before June 30, 2005, and shall cease
2 operation of the Hastings Regional Center on or before December 31,
3 2005.

4 Sec. 11. The division shall coordinate the integration
5 and management of all funds appropriated by the Legislature or
6 otherwise received by the Nebraska Health and Human Services System
7 from any other public or private source and designated by the
8 Policy Cabinet for the provision of behavioral health services to
9 ensure the statewide availability of an appropriate array of
10 community-based behavioral health services and continuum of care
11 and the allocation of such funds to support the consumer and his or
12 her plan of treatment.

13 Sec. 12. (1) The Behavioral Health Services Fund is
14 created. The fund shall be administered by the division and shall
15 contain revenue appropriated by the Legislature or otherwise
16 received by the Nebraska Health and Human Services System for the
17 provision of behavioral health services from any other public or
18 private source, except for revenue appropriated for purposes of the
19 medical assistance program established under section 68-1018, and
20 directed by the Policy Cabinet or the Legislature for credit to the
21 fund.

22 (2) The fund shall be used to encourage and facilitate
23 the statewide development and provision of community-based
24 behavioral health services, including, but not limited to, (a) the
25 provision of grants, loans, and other assistance for such purpose
26 and (b) reimbursement to providers of such services.

27 (3) Any money in the fund available for investment shall
28 be invested by the state investment officer pursuant to the

1 Nebraska Capital Expansion Act and the Nebraska State Funds
2 Investment Act.

3 Sec. 13. (1) The State Behavioral Health Council is
4 created. The council shall consist of one member appointed by each
5 regional governing board and not more than twenty members appointed
6 by the Governor. Members shall have a demonstrated interest and
7 commitment and specialized knowledge, experience, or expertise
8 relating to the provision of behavioral health services in the
9 State of Nebraska and shall be broadly representative of all
10 behavioral health regions. The council shall include, but not be
11 limited to, (a) not less than eleven consumers of behavioral health
12 services or their family members, (b) providers of behavioral
13 health services, (c) two representatives from the State Department
14 of Education, including one representative from the Division of
15 Vocational Rehabilitation of the State Department of Education, (d)
16 one representative from the Department of Health and Human Services
17 Finance and Support, (e) one representative from the Department of
18 Health and Human Services, (f) one representative from the Nebraska
19 Commission on Law Enforcement and Criminal Justice, and (g) one
20 representative from the Housing Office of the Community and Rural
21 Development Division of the Department of Economic Development. No
22 more than fifty percent of members of the council shall be state
23 employees or providers of behavioral health services. Members
24 shall be appointed for staggered terms of three years and until
25 their successors are appointed and qualified. Vacancies for any
26 unexpired term shall be filled in the same manner as provided for
27 the original appointment. Members shall serve without compensation
28 but shall be reimbursed for their actual and necessary expenses as

1 provided in sections 81-1174 to 81-1177. The council shall
2 annually elect a chairperson and other officers from among its
3 members. No officer shall serve more than three consecutive
4 one-year terms in any single office.

5 (2) The council shall be responsible to the division and
6 shall (a) serve as the state's mental health planning council as
7 required by Public Law 102-321, (b) meet at least quarterly and
8 provide advice and assistance to the division relating to the
9 provision of behavioral health services in the State of Nebraska,
10 (c) promote the interests of consumers of behavioral health
11 services and their families, and (d) report annually to the
12 Governor and the Legislature.

13 Sec. 14. The State Behavioral Health Council shall
14 establish three subcommittees to be known as the Subcommittee on
15 Mental Health Services, the Subcommittee on Substance Abuse
16 Services, and the Subcommittee on Compulsive Gambling and Addiction
17 Services. The chairperson of each subcommittee shall be a member
18 of the council, and each chairperson shall be elected by a majority
19 of members of the council. Each subcommittee shall consist of no
20 more than ten members appointed by the chairperson of the
21 subcommittee in consultation with the council and confirmed by a
22 majority of members of the council. At least fifty percent of the
23 members of each subcommittee shall also be members of the council.
24 Members of the Subcommittee on Mental Health Services shall have a
25 demonstrated interest and commitment and specialized knowledge,
26 experience, or expertise relating to the provision of mental health
27 services in the State of Nebraska. Members of the Subcommittee on
28 Substance Abuse Services shall have a demonstrated interest and

1 commitment and specialized knowledge, experience, or expertise
2 relating to the provision of substance abuse services in the State
3 of Nebraska. Members of the Subcommittee on Compulsive Gambling
4 and Addiction Services shall have a demonstrated interest and
5 commitment and specialized knowledge, experience, or expertise
6 relating to the provision of compulsive gambling and addiction
7 services in the State of Nebraska. Subcommittee members shall be
8 appointed for staggered terms of three years and shall serve until
9 their successors are appointed and qualified. A vacancy for an
10 unexpired term shall be filled in the same manner as provided for
11 the original appointment. Subcommittee members shall serve without
12 compensation but shall be reimbursed for their actual and necessary
13 expenses as provided in sections 81-1174 to 81-1177. Each
14 subcommittee shall be responsible to the council and shall (1)
15 conduct regular meetings, (2) provide advice and assistance to the
16 council and the division, (3) promote the interests of consumers
17 and their families, (4) provide reports, and (5) engage in such
18 other activities as directed by the council. The Subcommittee on
19 Compulsive Gambling and Addiction Services shall evaluate
20 applications for funding from the Compulsive Gamblers Assistance
21 Fund and shall make recommendations to the council and the division
22 relating to disbursements from the fund.

23 Sec. 15. Section 83-162.04, Revised Statutes Supplement,
24 2002, is amended to read:

25 ~~83-162.04.~~ The Compulsive Gamblers Assistance Fund is
26 created. The fund shall include revenue transferred from the State
27 Lottery Operation Trust Fund under section 9-812 and the Charitable
28 Gaming Operations Fund under section 9-1,101 and any other revenue

1 received by the division for credit to the fund from any other
2 public or private source, including, but not limited to,
3 appropriations, grants, donations, gifts, devises, or bequests.
4 The division shall administer the fund for the treatment of
5 compulsive gamblers as recommended by the ~~commission~~ the State
6 Behavioral Health Council and the Subcommittee on Compulsive
7 Gambling and Addiction Services established under section 14 of
8 this act and shall spend no more than ten percent of the money
9 appropriated to the fund for administrative costs. ~~In addition to~~
10 ~~money transferred to the fund from the State Lottery Operation~~
11 ~~Trust Fund under section 9-812 and the Charitable Gaming Operations~~
12 ~~Fund under section 9-1,101, the department is authorized to accept~~
13 ~~for deposit in the Compulsive Gamblers Assistance Fund funds,~~
14 ~~donations, gifts, devises, or bequests from any federal, state,~~
15 ~~local, public, or private source to be used by the division in the~~
16 ~~exercise of this authority under and in the performance of its~~
17 ~~duties in carrying out the provisions of the Alcoholism, Drug~~
18 ~~Abuse, and Addiction Services Act which relate to compulsive~~
19 ~~gambling.~~ The Director of Administrative Services shall draw
20 warrants upon the Compulsive Gamblers Assistance Fund upon the
21 presentation of proper vouchers by the division. Money from the
22 Compulsive Gamblers Assistance Fund shall be used exclusively for
23 the purpose of providing assistance to agencies, groups,
24 organizations, and individuals that provide education, assistance,
25 and counseling to individuals and families experiencing difficulty
26 as a result of problem or pathological gambling, to promote the
27 awareness of gamblers assistance programs, and to pay the costs and
28 expenses of the division, the council, and the subcommittee ~~and the~~

1 ~~commission~~ with regard to compulsive gambling. ~~Neither the~~
2 ~~director of the division nor the~~ The division shall not provide any
3 direct services to problem or pathological gamblers or their
4 families. Funds appropriated from the Compulsive Gamblers
5 Assistance Fund shall not be granted or loaned to or administered
6 by any of the mental health regional governing boards created
7 pursuant to the Nebraska Comprehensive Community Mental Health
8 Services Act unless the mental health region regional behavioral
9 health authority unless the authority is a direct provider of
10 services dealing with the treatment of compulsive gambling a
11 compulsive gamblers assistance program. Any money in the fund
12 available for investment shall be invested by the state investment
13 officer pursuant to the Nebraska Capital Expansion Act and the
14 Nebraska State Funds Investment Act.

15 Sec. 16. (1) The Behavioral Health Oversight Commission
16 of the Legislature is created. The commission shall consist of not
17 more than fifteen members appointed by the chairperson of the
18 Health and Human Services Committee of the Legislature and
19 confirmed by a majority of members of the committee. Members of
20 the commission shall possess a demonstrated interest and commitment
21 and specialized knowledge, experience, or expertise relating to the
22 provision of behavioral health services in the State of Nebraska
23 and shall be broadly representative of all the behavioral health
24 regions. Members of the commission shall serve without
25 compensation but shall be reimbursed for their actual and necessary
26 expenses as provided in sections 81-1174 to 81-1177.

27 (2) The commission, under the direction of the Health and
28 Human Services Committee of the Legislature, shall oversee and

1 support implementation of the Nebraska Behavioral Health Services
2 Act and shall administer such funds as appropriated by the
3 Legislature from the Nebraska Health Care Cash Fund and approved by
4 the committee for such purpose. The commission may employ staff,
5 enter into contracts, establish and utilize task forces and
6 subcommittees, and perform such other activities as necessary and
7 appropriate to carry out its duties under this section.

8 (3) The commission and this section terminate on June 30,
9 2008.

10 Sec. 17. The division, in consultation with the
11 Behavioral Health Oversight Commission of the Legislature
12 established in section 16 of this act, shall submit a behavioral
13 health implementation plan to the Governor and the Legislature on
14 or before July 1, 2004. The division shall immediately advise the
15 Health and Human Services Committee of the Legislature and the
16 commission of any proposed changes to the plan and shall provide
17 monthly and other reports as required by the committee or the
18 commission during implementation of the plan.

19 Sec. 18. The behavioral health implementation plan
20 required under section 17 of this act shall include, but not be
21 limited to, a detailed description of all completed, current, and
22 proposed activities by the division to:

23 (1) Select and appoint an administrator, chief clinical
24 officer, program administrator for consumer affairs, and other
25 staff within the division;

26 (2) Implement necessary and appropriate administrative
27 and other changes within the Nebraska Health and Human Services
28 System to carry out the Nebraska Behavioral Health Services Act;

1 (3) Describe and define the role and function of the
2 office of consumer affairs within the division;

3 (4) Describe and define the relationship between the
4 division and regional behavioral health authorities, including, but
5 not limited to, the nature and scope of the coordination and
6 oversight of such authorities by the division;

7 (5) Plan for the statewide development and provision of
8 an appropriate array of community-based behavioral health services
9 and continuum of care for both children and adults and the
10 integration and coordination of such services with primary health
11 care services;

12 (6) (a) Identify persons currently receiving regional
13 center behavioral health services for whom community-based
14 behavioral health services would be appropriate, (b) provide for
15 the development and funding of appropriate community-based
16 behavioral health services for such persons in each behavioral
17 health region, (c) transition such persons from regional centers to
18 appropriate community-based behavioral health services, (d) reduce
19 new admissions and readmissions to regional centers, and (e)
20 establish criteria, procedures, and timelines for the closure of
21 the Norfolk Regional Center and the Hastings Regional Center;

22 (7) Evaluate and make recommendations relating to the
23 administration and operation of the regional centers;

24 (8) Integrate all behavioral health funding within the
25 Nebraska Health and Human Services System and allocate such funding
26 to support the consumer and his or her plan of treatment;

27 (9) Establish (a) priorities for behavioral health
28 services and funding, (b) rates and reimbursement methodologies for

1 providers of behavioral health services and negotiated rulemaking
2 strategies for the development of such methodologies, and (c) fees
3 to be paid by consumers of behavioral health services, which fees
4 shall not exceed the actual costs of providing such services;

5 (10) Access additional public and private funding for the
6 provision of behavioral health services in each behavioral health
7 region, including additional federal funding through the medical
8 assistance program established in section 68-1018, and establish
9 programs and procedures for the provision of grants, loans, and
10 other assistance for the provision of such services;

11 (11) Encourage and facilitate activities of the State
12 Behavioral Health Council and the subcommittees of the council; and

13 (12) Promote activities in research and education to
14 improve the quality of behavioral health services, the recruitment
15 and retention of behavioral health professionals, and the
16 availability of behavioral health services.

17 Sec. 19. Section 9-812, Revised Statutes Supplement,
18 2003, is amended to read:

19 9-812. (1) All money received from the operation of
20 lottery games conducted pursuant to the State Lottery Act in
21 Nebraska shall be credited to the State Lottery Operation Trust
22 Fund, which fund is hereby created. All payments of expenses of
23 the operation of the lottery games shall be made from the State
24 Lottery Operation Cash Fund. In accordance with legislative
25 appropriations, money for payments for expenses of the division
26 shall be transferred from the State Lottery Operation Trust Fund to
27 the State Lottery Operation Cash Fund, which fund is hereby
28 created. All money necessary for the payment of lottery prizes

1 shall be transferred from the State Lottery Operation Trust Fund to
2 the State Lottery Prize Trust Fund, which fund is hereby created.
3 The amount used for the payment of lottery prizes shall not be less
4 than forty percent of the dollar amount of the lottery tickets
5 which have been sold. Until October 1, 2003, at least twenty-five
6 percent and beginning October 1, 2003, and until January 1, 2008, a
7 portion of the dollar amount of the lottery tickets which have been
8 sold on an annualized basis shall be transferred from the State
9 Lottery Operation Trust Fund to the Education Innovation Fund, the
10 Nebraska Scholarship Fund, the Nebraska Environmental Trust Fund,
11 and the Compulsive Gamblers Assistance Fund, except that the dollar
12 amount transferred shall not be less than the dollar amount
13 transferred to the funds in fiscal year 2002-03. On and after
14 January 1, 2008, at least twenty-five percent of the dollar amount
15 of the lottery tickets which have been sold on an annualized basis
16 shall be transferred from the State Lottery Operation Trust Fund to
17 the Education Innovation Fund, the Nebraska Scholarship Fund, the
18 Nebraska Environmental Trust Fund, and the Compulsive Gamblers
19 Assistance Fund. Of the money available to be transferred to the
20 Education Innovation Fund, the Nebraska Scholarship Fund, the
21 Nebraska Environmental Trust Fund, and the Compulsive Gamblers
22 Assistance Fund, the first five hundred thousand dollars shall be
23 transferred to the Compulsive Gamblers Assistance Fund to be used
24 as provided in ~~sections 83-162.01 to 83-162.04~~ section 15 of this
25 act. Twenty-four and three-fourths percent of the money remaining
26 after the payment of prizes and operating expenses and the initial
27 transfer to the Compulsive Gamblers Assistance Fund shall be
28 transferred to the Education Innovation Fund. Twenty-four and

1 three-fourths percent of the money remaining after the payment of
2 prizes and operating expenses and the initial transfer to the
3 Compulsive Gamblers Assistance Fund shall be transferred to the
4 Nebraska Scholarship Fund. Forty-nine and one-half percent of the
5 money remaining after the payment of prizes and operating expenses
6 and the initial transfer to the Compulsive Gamblers Assistance Fund
7 shall be transferred to the Nebraska Environmental Trust Fund to be
8 used as provided in the Nebraska Environmental Trust Act. One
9 percent of the money remaining after the payment of prizes and
10 operating expenses and the initial transfer to the Compulsive
11 Gamblers Assistance Fund shall be transferred to the Compulsive
12 Gamblers Assistance Fund to be used as provided in ~~sections~~
13 ~~83-162.01 to 83-162.04~~ section 15 of this act.

14 (2) The Education Innovation Fund is hereby created. At
15 least seventy-five percent of the lottery proceeds allocated to the
16 Education Innovation Fund shall be available for disbursement. For
17 each fiscal year except fiscal years 2003-04 and 2004-05, the
18 Education Innovation Fund shall be allocated in the following
19 manner: Up to twenty percent to fund the mentor teacher program
20 pursuant to the Quality Education Accountability Act; up to forty
21 percent to the Attracting Excellence to Teaching Program Cash Fund
22 to fund the Attracting Excellence to Teaching Program Act; and up
23 to forty percent of the fund shall be allocated by the Governor.
24 For fiscal years 2003-04 and 2004-05, the Education Innovation Fund
25 shall be allocated to the General Fund after operating expenses for
26 the Excellence in Education Council are deducted.

27 Allocations by the Governor shall be through incentive
28 grants to encourage the development of strategic school improvement

1 plans by school districts for accomplishing high performance
2 learning and to encourage schools to establish innovations in
3 programs or practices that result in restructuring of school
4 organization, school management, and instructional programs which
5 bring about improvement in the quality of education. Such
6 incentive grants allocated by the Governor are intended to provide
7 selected school districts, teachers or groups of teachers,
8 nonprofit educational organizations, educational service units, or
9 cooperatives funding for the allowable costs of implementing pilot
10 projects and model programs.

11 From the funds allocated by the Governor, minigrants
12 shall be available to school districts to support the development
13 of strategic school improvement plans which shall include
14 statements of purposes and goals for the districts. The plans
15 shall also include the specific statements of improvement or
16 strategic initiatives designed to improve quality learning for
17 every student.

18 In addition to the minigrants granted for the development
19 of strategic school improvement plans, school districts with annual
20 budget expenditures of three hundred fifty thousand dollars or less
21 are eligible for minigrants from the funds allocated by the
22 Governor for the purposes allowed in subdivisions (2)(a) through
23 (q) of this section. The amount of this type of minigrant shall
24 not exceed five thousand dollars. The school district shall
25 present a curriculum support plan with its application for the
26 grant. The curriculum support plan must show how the district is
27 working to achieve one or more of the allowed purposes and how the
28 grant will be used to directly advance the plan to achieve one or

1 more of these purposes. The plan must be signed by the school
2 administrator and a school board representative. The application
3 for the grant shall be brief. The Excellence in Education Council
4 shall select the recipients of this type of minigrant and shall
5 administer such minigrants.

6 From the funds allocated by the Governor, major
7 competitive grants shall be available to support innovative
8 programs which are directly related to the strategic school
9 improvement plans. The development of a strategic school
10 improvement plan by a school district shall be required before a
11 grant is awarded. Annual reports shall be made by program
12 recipients documenting the effectiveness of the program in
13 improving the quality of education as designed in the strategic
14 school improvement plans. Special consideration shall be given to
15 plans which contain public or private matching funds and
16 cooperative agreements, including agreements for in-kind services.
17 Purposes for which such major competitive grants would be offered
18 shall include:

19 (a) Professional staff development programs to provide
20 funds for teacher and administrator training and continuing
21 education to upgrade teaching and administrative skills;

22 (b) The development of strategic school improvement plans
23 by school districts;

24 (c) Educational technology assistance to public schools
25 for the purchase and operation of computers, telecommunications
26 equipment and services, and other forms of technological innovation
27 which may enhance classroom teaching, instructional management, and
28 districtwide administration. Telecommunications equipment,

1 services, and forms of technical innovation shall be approved only
2 after review by the technical panel created in section 86-521;

3 (d) An educational accountability program to develop an
4 educational indicators system to measure the performance and
5 outcomes of public schools and to ensure efficiency in operations;

6 (e) Alternative programs for students, including
7 underrepresented groups, at-risk students, and dropouts;

8 (f) Programs that demonstrate improvement of student
9 performance against valid national and international achievement
10 standards;

11 (g) Early childhood and parent education which emphasizes
12 child development;

13 (h) Programs using decisionmaking models that increase
14 involvement of parents, teachers, and students in school
15 management;

16 (i) Increased involvement of the community in order to
17 achieve increased confidence in and satisfaction with its schools;

18 (j) Development of magnet or model programs designed to
19 facilitate desegregation;

20 (k) Programs that address family and social issues
21 impairing the learning productivity of students;

22 (l) Programs enhancing critical and higher-order thinking
23 capabilities;

24 (m) Programs which produce the quality of education
25 necessary to guarantee a competitive work force;

26 (n) Programs designed to increase productivity of staff
27 and students through innovative use of time;

28 (o) Training programs designed to benefit teachers at all

1 levels of education by increasing their ability to work with
2 educational technology in the classroom;

3 (p) Approved accelerated or differentiated curriculum
4 programs under sections 79-1106 to 79-1108.03; and

5 (q) Programs for children from birth to age twenty-one
6 years with disabilities receiving special education under the
7 Special Education Act and children from birth to age twenty-one
8 years needing support services as defined in section 79-1125.01,
9 which programs demonstrate improved outcomes for children from
10 birth to age twenty-one years through emphasis on prevention and
11 collaborative planning.

12 The Governor shall establish the Excellence in Education
13 Council. The Governor shall appoint eleven members to the council
14 including representatives of educational organizations,
15 postsecondary educational institutions, the business community, and
16 the general public, members of school boards and parent education
17 associations, school administrators, and at least four teachers who
18 are engaged in classroom teaching. The State Department of
19 Education shall provide staff support for the council to administer
20 the Education Innovation Fund, including the Quality Education
21 Accountability Act. The council shall have the following powers
22 and duties:

23 (i) In consultation with the department, develop and
24 publish criteria for the awarding of incentive grants allocated by
25 the Governor for programs pursuant to this subsection, including
26 minigrants;

27 (ii) Provide recommendations to the Governor regarding
28 the selection of projects to be funded and the distribution and

1 duration of project funding;

2 (iii) Establish standards, formats, procedures, and
3 timelines for the successful implementation of approved programs
4 funded by incentive grants allocated by the Governor from the
5 Education Innovation Fund;

6 (iv) Assist school districts in determining the
7 effectiveness of the innovations in programs and practices and
8 measure the subsequent degree of improvement in the quality of
9 education;

10 (v) Consider the reasonable distribution of funds across
11 the state and all classes of school districts;

12 (vi) Carry out its duties pursuant to the Quality
13 Education Accountability Act; and

14 (vii) Provide annual reports to the Governor concerning
15 programs funded by the fund. Each report shall include the number
16 of applicants and approved applicants, an overview of the various
17 programs, objectives, and anticipated outcomes, and detailed
18 reports of the cost of each program.

19 To assist the council in carrying out its duties, the
20 State Board of Education shall, in consultation with the council,
21 adopt and promulgate rules and regulations establishing criteria,
22 standards, and procedures regarding the selection and
23 administration of programs funded from the Education Innovation
24 Fund, including the Quality Education Accountability Act.

25 (3) Recipients of incentive grants allocated by the
26 Governor from the Education Innovation Fund shall be required to
27 provide, upon request, such data relating to the funded programs
28 and initiatives as the Governor deems necessary.

1 (4) Any money in the State Lottery Operation Trust Fund,
2 the State Lottery Operation Cash Fund, the State Lottery Prize
3 Trust Fund, or the Education Innovation Fund available for
4 investment shall be invested by the state investment officer
5 pursuant to the Nebraska Capital Expansion Act and the Nebraska
6 State Funds Investment Act.

7 (5) Unclaimed prize money on a winning lottery ticket
8 shall be retained for a period of time prescribed by rules and
9 regulations. If no claim is made within such period, the prize
10 money shall be used at the discretion of the Tax Commissioner for
11 any of the purposes prescribed in this section.

12 Sec. 20. Section 28-416, Revised Statutes Supplement,
13 2003, is amended to read:

14 28-416. (1) Except as authorized by the Uniform
15 Controlled Substances Act, it shall be unlawful for any person
16 knowingly or intentionally: (a) To manufacture, distribute,
17 deliver, dispense, or possess with intent to manufacture,
18 distribute, deliver, or dispense a controlled substance; or (b) to
19 create, distribute, or possess with intent to distribute a
20 counterfeit controlled substance.

21 (2) Except as provided in subsections (4), (5), (7), (8),
22 (9), and (10) of this section, any person who violates subsection
23 (1) of this section with respect to: (a) A controlled substance
24 classified in Schedule I, II, or III of section 28-405 which is an
25 exceptionally hazardous drug shall be guilty of a Class II felony;
26 (b) any other controlled substance classified in Schedule I, II, or
27 III of section 28-405 shall be guilty of a Class III felony; or (c)
28 a controlled substance classified in Schedule IV or V of section

1 28-405 shall be guilty of a Class IIIA felony.

2 (3) A person knowingly or intentionally possessing a
3 controlled substance, except marijuana, unless such substance was
4 obtained directly or pursuant to a medical order issued by a
5 practitioner authorized to prescribe while acting in the course of
6 his or her professional practice, or except as otherwise authorized
7 by the act, shall be guilty of a Class IV felony.

8 (4) (a) Except as authorized by the Uniform Controlled
9 Substances Act, any person eighteen years of age or older who
10 knowingly or intentionally manufactures, distributes, delivers,
11 dispenses, or possesses with intent to manufacture, distribute,
12 deliver, or dispense a controlled substance or a counterfeit
13 controlled substance (i) to a person under the age of eighteen
14 years, (ii) in, on, or within one thousand feet of the real
15 property comprising a public or private elementary, vocational, or
16 secondary school, a community college, a public or private college,
17 junior college, or university, or a playground, or (iii) within one
18 hundred feet of a public or private youth center, public swimming
19 pool, or video arcade facility shall be punished by the next higher
20 penalty classification than the penalty prescribed in subsection
21 (2), (7), (8), (9), or (10) of this section, depending upon the
22 controlled substance involved, for the first violation and for a
23 second or subsequent violation shall be punished by the next higher
24 penalty classification than that prescribed for a first violation
25 of this subsection, but in no event shall such person be punished
26 by a penalty greater than a Class IB felony.

27 (b) For purposes of this subsection:

28 (i) Playground shall mean any outdoor facility, including

1 any parking lot appurtenant to the facility, intended for
2 recreation, open to the public, and with any portion containing
3 three or more apparatus intended for the recreation of children,
4 including sliding boards, swingsets, and teeterboards;

5 (ii) Video arcade facility shall mean any facility
6 legally accessible to persons under eighteen years of age, intended
7 primarily for the use of pinball and video machines for amusement,
8 and containing a minimum of ten pinball or video machines; and

9 (iii) Youth center shall mean any recreational facility
10 or gymnasium, including any parking lot appurtenant to the facility
11 or gymnasium, intended primarily for use by persons under eighteen
12 years of age which regularly provides athletic, civic, or cultural
13 activities.

14 (5) (a) Except as authorized by the Uniform Controlled
15 Substances Act, it shall be unlawful for any person eighteen years
16 of age or older to knowingly and intentionally employ, hire, use,
17 cause, persuade, coax, induce, entice, seduce, or coerce any person
18 under the age of eighteen years to manufacture, transport,
19 distribute, carry, deliver, dispense, prepare for delivery, offer
20 for delivery, or possess with intent to do the same a controlled
21 substance or a counterfeit controlled substance.

22 (b) Except as authorized by the Uniform Controlled
23 Substances Act, it shall be unlawful for any person eighteen years
24 of age or older to knowingly and intentionally employ, hire, use,
25 cause, persuade, coax, induce, entice, seduce, or coerce any person
26 under the age of eighteen years to aid and abet any person in the
27 manufacture, transportation, distribution, carrying, delivery,
28 dispensing, preparation for delivery, offering for delivery, or

1 possession with intent to do the same of a controlled substance or
2 a counterfeit controlled substance.

3 (c) Any person who violates subdivision (a) or (b) of
4 this subsection shall be punished by the next higher penalty
5 classification than the penalty prescribed in subsection (2), (7),
6 (8), (9), or (10) of this section, depending upon the controlled
7 substance involved, for the first violation and for a second or
8 subsequent violation shall be punished by the next higher penalty
9 classification than that prescribed for a first violation of this
10 subsection, but in no event shall such person be punished by a
11 penalty greater than a Class IB felony.

12 (6) It shall not be a defense to prosecution for
13 violation of subsection (4) or (5) of this section that the
14 defendant did not know the age of the person through whom the
15 defendant violated such subsection.

16 (7) Any person who violates subsection (1) of this
17 section with respect to cocaine or any mixture or substance
18 containing a detectable amount of cocaine in a quantity of:

19 (a) One hundred forty grams or more shall be guilty of a
20 Class IB felony;

21 (b) At least twenty-eight grams but less than one hundred
22 forty grams shall be guilty of a Class IC felony; or

23 (c) At least ten grams but less than twenty-eight grams
24 shall be guilty of a Class ID felony.

25 (8) Any person who violates subsection (1) of this
26 section with respect to base cocaine (crack) or any mixture or
27 substance containing a detectable amount of base cocaine in a
28 quantity of:

1 (a) One hundred forty grams or more shall be guilty of a
2 Class IB felony;

3 (b) At least twenty-eight grams but less than one hundred
4 forty grams shall be guilty of a Class IC felony; or

5 (c) At least ten grams but less than twenty-eight grams
6 shall be guilty of a Class ID felony.

7 (9) Any person who violates subsection (1) of this
8 section with respect to heroin or any mixture or substance
9 containing a detectable amount of heroin in a quantity of:

10 (a) Five hundred grams or more shall be guilty of a Class
11 IB felony;

12 (b) One hundred grams or more but less than five hundred
13 grams shall be guilty of a Class IC felony; or

14 (c) Twenty-eight grams or more but less than one hundred
15 grams shall be guilty of a Class ID felony.

16 (10) Any person who violates subsection (1) of this
17 section with respect to amphetamine, its salts, optical isomers,
18 and salts of its isomers, or with respect to methamphetamine, its
19 salts, optical isomers, and salts of its isomers, in a quantity of:

20 (a) Sixteen ounces or more shall be guilty of a Class IC
21 felony;

22 (b) Seven ounces or more but less than sixteen ounces
23 shall be guilty of a Class ID felony; or

24 (c) Three and one-half ounces or more but less than seven
25 ounces shall be guilty of a Class II felony.

26 (11) Any person knowingly or intentionally possessing
27 marijuana weighing more than one ounce but not more than one pound
28 shall be guilty of a Class IIIA misdemeanor.

1 (12) Any person knowingly or intentionally possessing
2 marijuana weighing more than one pound shall be guilty of a Class
3 IV felony.

4 (13) Any person knowingly or intentionally possessing
5 marijuana weighing one ounce or less shall:

6 (a) For the first offense, be guilty of an infraction,
7 receive a citation, be fined one hundred dollars, and be assigned
8 to attend a course as prescribed in section 29-433 if the judge
9 determines that attending such course is in the best interest of
10 the individual defendant;

11 (b) For the second offense, be guilty of a Class IV
12 misdemeanor, receive a citation, and be fined two hundred dollars
13 and may be imprisoned not to exceed five days; and

14 (c) For the third and all subsequent offenses, be guilty
15 of a Class IIIA misdemeanor, receive a citation, be fined three
16 hundred dollars, and be imprisoned not to exceed seven days.

17 (14) Any person convicted of violating this section, if
18 placed on probation, shall, as a condition of probation,
19 satisfactorily attend and complete appropriate treatment and
20 counseling on drug abuse ~~conducted by one of the community mental~~
21 ~~health facilities as provided by Chapter 71, article 50, provided~~
22 by a program authorized under the Nebraska Behavioral Health
23 Services Act or other licensed drug treatment facility.

24 (15) Any person convicted of violating this section, if
25 sentenced to the Department of Correctional Services, shall attend
26 appropriate treatment and counseling on drug abuse.

27 (16) A person knowingly or intentionally possessing a
28 firearm while in violation of subsection (1) of this section or

1 while in possession of money used or intended to be used to
2 facilitate a violation of subsection (1) of this section shall be
3 guilty of a Class IV felony.

4 Sec. 21. Section 42-917, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 42-917. The delivery of all services provided for under
7 the Protection from Domestic Abuse Act shall be done in cooperation
8 with existing public, private, state, and local programs whenever
9 possible to avoid duplication of services. Special effort shall be
10 taken to coordinate programs with the Department of Labor, the
11 Nebraska Commission on the Status of Women, the State Department of
12 Education, the Division of ~~Alcoholism, Drug Abuse, and Addiction~~
13 Behavioral Health Services of the Department of Health and Human
14 Services, the Department of Health and Human Services Regulation
15 and Licensure, the Department of Health and Human Services Finance
16 and Support, other appropriate agencies, community service
17 agencies, and private sources.

18 Sec. 22. Section 44-773, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 44-773. Outpatient program shall refer to a program
21 which is ~~not required to be licensed or certified~~ or certified by the Department
22 of Health and Human Services Regulation and Licensure ~~as a~~
23 ~~substance abuse treatment center but which is certified pursuant to~~
24 ~~section 43-163~~ or the Division of Behavioral Health Services of the
25 Department of Health and Human Services to provide specified
26 services to persons suffering from the disease of alcoholism.

27 Sec. 23. Section 44-774, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 44-774. Certified shall mean approved ~~to render specific~~
2 ~~types or levels of care to the person suffering from the disease of~~
3 ~~alcoholism~~ by the Division of ~~Alcoholism, Drug Abuse, and Addiction~~
4 Behavioral Health Services of the Department of Health and Human
5 Services to render specific types or levels of care to the person
6 suffering from the disease of alcoholism.

7 Sec. 24. Section 81-2213, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 81-2213. The Department of Health and Human Services
10 shall have the following powers and duties:

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

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

19 (3) To adopt and promulgate rules, regulations, and
20 bylaws governing its procedure and activities and as necessary to
21 carry out the policies of the department and the policies
22 prescribed by the Administration on Aging pursuant to the federal
23 Older Americans Act, as now or hereafter amended;

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

26 (5) To cooperate with and assist other state and local
27 governmental agencies and officials on matters relating to services
28 for older individuals;

1 (6) To divide the state into planning-and-service areas
2 as provided in section ~~71-5002 for mental~~ 7 of this act for
3 behavioral health regions, except that Regions ~~III and V~~ 3 and 5
4 may each be divided into two planning-and-service areas with
5 boundaries as established by the department for
6 planning-and-service areas in existence in those regions on July 1,
7 1982;

8 (7) To establish minimum standards for program operations
9 and to adopt and promulgate rules and regulations for the
10 performance of area agencies on aging and for any services provided
11 by such area agencies on aging which are funded in whole or in part
12 under the Nebraska Community Aging Services Act or the federal
13 Older Americans Act, as now or hereafter amended;

14 (8) To require the submission of a one-year and a
15 five-year area plan and budget by each area agency on aging or
16 agency seeking designation as an area agency on aging. Such plans
17 and budgets shall be submitted sixty days prior to the start of
18 each fiscal year in accordance with the uniform area plan format
19 and other instructions issued by the department;

20 (9) To review and approve a one-year and a five-year area
21 plan and budget for the support of each area agency on aging and
22 the provision of eligible activities and services as defined in
23 section 81-2222;

24 (10) To adopt and submit to the Legislature a community
25 aging services budget;

26 (11) To review the performance of each area agency on
27 aging and, based on the department-approved area plan and budget,
28 to determine the continued designation or the withdrawal of the

1 designation of an area agency on aging receiving or requesting
2 resources through the state or under the Nebraska Community Aging
3 Services Act or the federal Older Americans Act, as now or
4 hereafter amended. After consultation with the director of the
5 area agency on aging and the governing unit of the area agency on
6 aging, the department may withdraw a designation when it can be
7 shown that federal or state laws, rules, or regulations have not
8 been complied with, state or federal funds are not being expended
9 for the purposes for which they were intended, or older individuals
10 are not receiving appropriate services within available resources.
11 Withdrawal of a designation may be appealed to the director. Upon
12 withdrawal of a designation, the department may temporarily perform
13 all or part of the functions and responsibilities of the area
14 agency on aging, may designate another agency to perform such
15 functions and responsibilities identified by the department until
16 the designation of a new area agency on aging, and, when deemed
17 necessary, may temporarily deliver services to assure continuity;

18 (12) To conduct continuing studies and analyses of the
19 problems faced by older individuals within the state and develop
20 such recommendations for administrative or legislative action as
21 appear necessary;

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

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

28 (15) To report and make recommendations to the Governor

1 and the Legislature on the activities of the department and the
 2 committee and improvements or additional resources needed to
 3 promote the general welfare of older individuals in Nebraska. Each
 4 member of the Legislature shall receive a copy of the report; and

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

7 Sec. 25. Section 83-305, Reissue Revised Statutes of
 8 Nebraska, is amended to read:

9 83-305. The state hospital established in Lancaster
 10 County for the treatment of mental illnesses shall be ~~located on~~
 11 ~~the campus~~ known as the Lincoln Regional Center. The state
 12 hospital established in Madison County shall be ~~located on the~~
 13 ~~campus~~ known as the Norfolk Regional Center. The state hospital
 14 established in Adams County shall be ~~located on the campus~~ known as
 15 the Hastings Regional Center.

16 Sec. 26. Section 83-321, Reissue Revised Statutes of
 17 Nebraska, is amended to read:

18 83-321. The ~~county board of~~ mental health board shall
 19 prepare and file an annual inventory statement with the county
 20 board of its county of all county personal property in its custody
 21 or possession, as provided in sections ~~83-306, 83-307, 83-311~~
 22 83-312 to 83-351, and 83-354 to 83-357.

23 Sec. 27. Section 83-336, Reissue Revised Statutes of
 24 Nebraska, is amended to read:

25 83-336. The Director of Health and Human Services shall
 26 provide the ~~county board of~~ mental health board with blanks for
 27 warrants, certificates, and other forms, such as will enable them
 28 to comply with sections ~~83-306, 83-307, 83-311~~ 83-312 to 83-351,

1 and 83-354 to 83-357, and also with printed copies of the
 2 applicable rules and regulations of the Department of Health and
 3 Human Services.

4 Sec. 28. Section 83-338, Reissue Revised Statutes of
 5 Nebraska, is amended to read:

6 83-338. If at any time it ~~shall become~~ becomes
 7 necessary, for ~~want of room~~ lack of capacity or other cause, to
 8 ~~discriminate in the general reception~~ establish priorities for the
 9 admission of patients into the state hospitals for the mentally
 10 ill, the ~~selection shall be made as follows~~ following priorities
 11 for admission shall be recognized: (1) Patients whose care in the
 12 state hospital is necessary in order to protect the public health
 13 and safety; (2) patients committed by a mental health board under
 14 the Nebraska Mental Health Commitment Act or by a district court;
 15 (3) patients who are most likely to be benefited by treatment in
 16 the state hospitals, regardless of whether such patients are
 17 committed by a ~~county board of~~ mental health board or whether such
 18 patients seek voluntary admission to one of the state hospitals;
 19 ~~(3) patients shall next be admitted to the state hospitals in the~~
 20 ~~order in which they are committed by the county boards of mental~~
 21 ~~health or by the several district courts;~~ and (4) when cases are
 22 equally meritorious, in all other respects, ~~the~~ patients who are
 23 indigent. ~~shall have preference.~~

24 Sec. 29. Section 83-340, Reissue Revised Statutes of
 25 Nebraska, is amended to read:

26 83-340. Any voluntary patient in a state hospital for
 27 the mentally ill who ~~is cured~~ no longer meets the clinical and
 28 legal requirements for treatment at such hospital shall be

1 ~~immediately discharged by the superintendent.~~ Upon discharging
 2 such patient or any other patient, the superintendent shall furnish
 3 the patient, unless he or she is otherwise supplied, with suitable
 4 clothing, and a sum of money not exceeding twenty dollars, which
 5 shall be charged to the care of that patient in the hospital. The
 6 relatives of any patient not susceptible to cure by medical
 7 treatment in the hospital, and not dangerous to be at large, shall
 8 have the right to take charge of and remove the patient on the
 9 consent of the Director of Health and Human Services the chief
 10 executive officer of such hospital.

11 Sec. 30. Section 83-340.01, Reissue Revised Statutes of
 12 Nebraska, is amended to read:

13 83-340.01. When the ~~superintendent~~ chief executive
 14 officer of any state hospital for the mentally ill determines that
 15 any nonvoluntary patient in such hospital may be safely and
 16 properly discharged or placed on convalescent leave, the
 17 ~~superintendent~~ chief executive officer shall immediately notify the
 18 ~~county committing board of mental health board~~ of the judicial
 19 district in which such patient has legal settlement pursuant to
 20 ~~section 83-1079~~ the Nebraska Mental Health Commitment Act.

21 Sec. 31. Section 83-350, Reissue Revised Statutes of
 22 Nebraska, is amended to read:

23 83-350. When the ~~superintendent~~ chief executive officer
 24 of a state hospital for the mentally ill has been notified, as
 25 provided for in sections ~~83-306, 83-307, 83-311~~ 83-312 to 83-351,
 26 and 83-354 to 83-357, that a patient sent to the hospital from one
 27 county has a legal settlement in another county of the state, ~~he~~
 28 the chief executive officer shall thereafter hold and treat such

1 patient as from the latter county.

2 Sec. 32. Section 83-4,148, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 83-4,148. The Governor shall appoint a substance abuse
5 treatment task force to study substance abuse treatment services in
6 the adult and juvenile criminal justice systems, recommend
7 improvements, and evaluate the implementation of improvements. The
8 task force shall include the chairperson of the Board of Parole,
9 the executive director of the Nebraska Commission on Law
10 Enforcement and Criminal Justice, the administrator of the Nebraska
11 Correctional Treatment Center, the administrators of the Department
12 of Health and Human Services Protection and Safety Division, the
13 ~~Director~~ administrator of the Division of ~~Alcoholism, Drug Abuse,~~
14 ~~and Addiction~~ Behavioral Health Services of the Department of
15 Health and Human Services, the probation administrator, the
16 administrator of the Office of Community Justice, the Director of
17 Policy Research, the Parole Administrator, or the designees of such
18 persons, and two members of the Legislature appointed by the
19 Executive Board of the Legislative Council. The Governor shall
20 also appoint ten additional persons from the private and public
21 sectors representing law enforcement, prosecution, courts, public
22 defenders, diversion, drug courts, county corrections, consumers,
23 and substance abuse treatment services to serve on the task force.
24 The appointments to the task force shall be made no later than June
25 15, 1999. The Governor shall appoint the chairperson of the task
26 force from the membership.

27 Sec. 33. Section 83-1006, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 83-1006. Mental health center shall mean a facility
 2 which provides behavioral health services as defined in ~~sections~~
 3 ~~71-5001 to 71-5041 and the Alcoholism, Drug Abuse, and Addiction~~
 4 the Nebraska Behavioral Health Services Act.

5 Sec. 34. Section 83-1007, Reissue Revised Statutes of
 6 Nebraska, is amended to read:

7 83-1007. State hospital shall mean a hospital as defined
 8 in section 83-305. ~~or 83-306.~~

9 Sec. 35. Section 83-1040, Reissue Revised Statutes of
 10 Nebraska, is amended to read:

11 83-1040. In order to aid the mental health board in
 12 determining the best available treatment alternative for a subject
 13 found to be a mentally ill dangerous person in need of
 14 board-ordered treatment, the board may request that a
 15 predisposition investigation be conducted by a qualified physician
 16 or a psychologist licensed to engage in the practice of psychology
 17 and report and recommendations be submitted to it by the ~~program~~
 18 ~~administrator, or his or her designee, of the comprehensive~~
 19 ~~community mental~~ regional behavioral health authority of the
 20 behavioral health services program in the ~~mental~~ behavioral health
 21 region in which the proceedings against the subject were held under
 22 the Nebraska Mental Health Commitment Act. The board may also
 23 require the Director of Health and Human Services or such
 24 director's designee to provide such assistance as may be necessary
 25 to place the subject of the petition in an appropriate facility or
 26 program pursuant to ~~section 71-5003~~ the Nebraska Behavioral Health
 27 Services Act. The board may further request predisposition
 28 assistance from the Department of Health and Human Services

1 pursuant to section 68-1202 and any other statutory or other
2 authority which it may have to provide such assistance. The board
3 may finally obtain assistance from any other public or private
4 agency or persons familiar with available treatment resources and
5 qualified to render such assistance. The board may require the
6 subject to submit to reasonable psychiatric and psychological
7 evaluation calculated to assist the mental health board in its
8 choice of the best treatment disposition.

9 Sec. 36. Section 83-1079, Revised Statutes Supplement,
10 2003, is amended to read:

11 83-1079. A mental health board shall be notified in
12 writing of the release by the treatment facility of any individual
13 committed by the mental health board. The mental health board
14 shall, upon the motion of the county attorney, or may upon its own
15 motion, conduct a hearing to determine whether the individual is a
16 mentally ill dangerous person and consequently not a proper subject
17 for release. Such hearing shall be conducted in accordance with
18 the procedures established for a hearing in sections 83-312, ~~83-339~~
19 ~~to~~ 83-340, 83-340.01, 83-380.01, 83-1011, 83-1016 to 83-1018,
20 83-1024, 83-1026 to 83-1037, 83-1044, 83-1048, 83-1049, 83-1053,
21 83-1056, 83-1058 to 83-1060, 83-1079, and 83-1080. The subject of
22 such hearing shall be accorded all rights guaranteed to the subject
23 of a petition under the Nebraska Mental Health Commitment Act.

24 Sec. 37. Sections 1 to 15, 19 to 36, 38, and 39 of this
25 act become operative on July 1, 2004. The other sections of this
26 act become operative on their effective date.

27 Sec. 38. Original sections 42-917, 44-773, 44-774,
28 81-2213, 83-305, 83-321, 83-336, 83-338, 83-340, 83-340.01, 83-350,

1 83-4,148, 83-1006, 83-1007, and 83-1040, Reissue Revised Statutes
2 of Nebraska, section 83-162.04, Revised Statutes Supplement, 2002,
3 and sections 9-812, 28-416, and 83-1079, Revised Statutes
4 Supplement, 2003, are repealed.

5 Sec. 39. The following sections are outright repealed:
6 Sections 71-5001 to 71-5010, 71-5012 to 71-5053, 71-5055 to
7 71-5066, 83-158.01, 83-159, 83-160, 83-161.02, 83-162.01 to
8 83-162.03, 83-163 to 83-169, 83-305.05, 83-306, 83-307, 83-307.01,
9 83-308, 83-311, 83-339, 83-352.02, and 83-356, Reissue Revised
10 Statutes of Nebraska.

11 Sec. 40. Since an emergency exists, this act takes
12 effect when passed and approved according to law.